

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
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of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

(3) One representative of Lincoln County law enforcement agencies;

B. Three members shall be appointed by the Sagadahoc County Commissioners as follows:

(1) One representative of Sagadahoc County fire departments;

(2) One representative of Sagadahoc County ambulance service personnel; and

(3) One representative of Sagadahoc County law enforcement agencies;

C. One member representing the Maine Yankee Nuclear Power Plant;

D. The Director of the Maine Emergency Management Agency, who shall act as chairman;

E. The Commissioner of Public Safety; and

F. The Director of Health Engineering.

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

Effective April 22, 1988.

CHAPTER 765

H.P. 1671 — L.D. 2289

AN ACT to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds.

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

Sec. 1. 12 MRSA §558-A, sub-§2, ¶A, as enacted by PL 1983, c. 819, Pt. A, §10, is amended to read:

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures:

(1) The director shall charge the lessee a base rent that practically approximates the fair market rental value of the land;

(2) The director may adjust the base rent, decreasing it for desirable uses or increasing it for undesirable ones. In determining the desirability of uses, the director shall consider the extent to which the use does not impair the future use of the submerged or intertidal land for fishing, fowling or navigation, needs to be located on the submerged land, and exploits natural renewable resources of the water;

(3) The director may revalue rents every 5 years.

For leases entered into before and after July 1, 1984, rents shall not exceed 4¢ per square foot increased by 10% cumulatively for each year that has elapsed since July 1, 1984, further adjusted by the cumulative increase in the United States Consumer Price Index. Notwithstanding this limit, if an appraisal of the value of the land under a new or existing lease is performed, the director may charge a rent based on subparagraphs (1) and (2); and

(4) The director may also lease, for a period of not more than 5 years, a buffer zone of not more than 30 feet in width around a permanent structure located on submerged or intertidal land, provided the lease is necessary to preserve the integrity and safety of the structure and the Commissioner of Marine Resources consents to that lease; ;

(5) No portion of any existing or proposed lease may be subleased after August 1, 1988, for a period of time of more than 5 years for the purpose of providing berthing space for any boat or vessel. This subparagraph shall not apply to any existing sublease or assignments thereof or to any subleasing plan or arrangement approved by the director prior to April 15, 1988. This subparagraph is repealed 91 days after the adjournment of the First Regular Session of the 114th Legislature; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

(a) Will not unreasonably interfere with navigation;

(b) Will not unreasonably interfere with fishing or other existing marine uses of the area; and

(c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities.

This subparagraph is repealed 91 days after the adjournment of the First Regular Session of the 114th Legislature.

Sec. 2. Study of submerged lands leasing policy. The Director of the Bureau of Public Lands, in cooperation with the State Planning Office and the Department of Marine Resources, shall conduct a comprehensive study of its policies and procedures for the leasing of submerged state lands.

1. Study topics. In addition to any other topics the director determines to be important, the study shall include consideration of the following topics:

A. The adequacy of current lease fee schedules to yield a fair rate of return for the State for the private use of submerged state lands;

B. The impact of current leasing policies on public access to the waters of the State, including access by commercial and recreational users;

C. The impact of current leasing policies on the commercial fishing industry, including the shore-based services and facilities on which this industry depends; and

D. The desirability of the current trend towards what is commonly known as a dockominium, which is long-term subleasing of leases to multiple leaseholders.

2. Advisory committee. The director shall convene and consult with an advisory panel of persons with interests and expertise in the topics under study. Membership shall include representatives of the Legislature; the commercial fishing industry; the marine trades industry; recreational boating interests; municipal officials, including harbor masters; leaseholders; and other groups as the director finds useful.

3. Report. The director shall report to the Joint Standing Committee on Energy and Natural Resources on the results of the study on or before January 1, 1989.

Effective August 4, 1988.

CHAPTER 766

H.P. 1688 — L.D. 2317

AN ACT to Promote Orderly Economic Growth and Natural Resource Conservation.

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

Sec. 1. 1 MRSA §302, as repealed and replaced by PL 1973, c. 146, is amended to read:

§302. Construction and effect of repealing and amending Acts

The repeal of an Act, resolve or municipal ordinance passed after the 4th day of March, 1870 does not revive any statute or ordinance in force before the Act, resolve or ordinance took effect. The repeal or amendment of an Act or ordinance does not affect any punishment, penalty or forfeiture incurred before the repeal or amendment takes effect, or any action or proceeding pending at the time of the repeal or amendment, for an offense committed or for recovery of a penalty or forfeiture incurred under the Act or ordinance repealed or amended. Actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby. For the purposes of this section, a proceeding shall include but not be limited to petitions or applications for licenses or permits required by law at the time of their filing. For the purposes of this section and regardless of any other action taken by the

reviewing authority, an application for a license or permit required by law at the time of its filing shall be considered to be a pending proceeding when the reviewing authority has conducted at least one substantive review of the application and not before. For the purposes of this section, a substantive review of an application for a license or permit required by law at the time of application shall consist of a review of that application to determine whether it complies with the review criteria and other applicable requirements of law.

Sec. 2. 5 MRSA §12004, sub-§10, ¶A, sub-¶(23-C) is enacted to read:

(23-C)	<u>Environment:</u>	<u>Planning</u>	<u>Expenses</u>	30 MRSA
	<u>Natural</u>	<u>Advisory</u>	<u>Only</u>	<u>§4960-D</u>
	<u>Resources</u>	<u>Council</u>		

Sec. 3. 30 MRSA, c. 239, sub-c. VI, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER VI

PLANNING AND LAND USE REGULATION

Sec. 4. 30 MRSA §§4960 to 4960-F are enacted to read:

§4960. Short title

This subchapter shall be known and may be cited as the "Comprehensive Planning and Land Use Regulation Act."

§4960-A. Statement of findings, purpose and goals

1. Legislative findings. The Legislature finds that:

A. The natural resources of the State, including its forests, agricultural lands, wetlands, waters, fisheries, wildlife, minerals and other related resources, are the underpinnings of the State's economy;

B. These same natural resources and traditional patterns of development have defined the quality of life which the citizens of the State treasure and seek to protect;

C. The pace of land speculation and development has accelerated and outstripped the capacity of the State and municipalities to manage this growth under existing state and local laws;

D. This unplanned growth threatens the integrity of the State's natural resource base, the ability of local and State Government to provide necessary public services, the affordability of decent housing, the long-term economic viability of the State's economy and the quality of life presently enjoyed by Maine's citizens;

E. The most effective land use planning can only occur at the local level of government and comprehen-