

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS

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1991

school budget meeting is delayed under this section, the school administrative unit may continue operation of the unit at the same budget levels as were approved for the previous year. Continued operation under the budget for the previous year is limited to the time between July 1st and the date the new budget goes into effect.

Sec. 7. PL 1991, c. 121, Pt. A, §9, under that part designated "EDUCATION, DEPARTMENT OF" in the first part relating to "General Purpose Aid for Local Schools" in the last sentence, is amended to read:

The ~~July~~ June 1991 payment must be made on or before July 5, 1991.

Sec. 8. Notice. Within 15 days of enactment of this Act, the Commissioner of Education shall send written notice to the superintendent of each school administrative unit of the availability of waivers from education mandates and the criteria and procedures for the granting of waivers. Upon request from a superintendent or school board, the commissioner shall provide technical assistance to assist the unit in determining the feasibility of applying for a waiver, in considering alternatives to a waiver, in applying for a waiver and in planning the action necessary to come into compliance with the mandate.

Sec. 9. Report. By January 1, 1992, the Commissioner of Education shall report to the Joint Standing Committee on Education on the status of educational mandate waivers. The report must include the number of waivers requested and granted, the mandates or requirements from which waivers were sought, the reasons for the waiver requests, the impact of waivers on school administrative units, an evaluation of the waiver program and recommendations on the continued need for educational mandate waivers and the ability of units to come into compliance with mandates following waivers. Following review of the commissioner's report, the Joint Standing Committee on Education may submit legislation to the Second Regular Session of the 115th Legislature.

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

Effective June 20, 1991.

CHAPTER 430

H.P. 646 - L.D. 920

An Act to Amend the Laws Relating to Submerged Land

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

Sec. 1. 12 MRSA §558-A, sub-§1, ¶¶E, F, G and H are enacted to read:

E. "Dockominium" means slip space that is sold or leased by a lessee of submerged lands to a boat or vessel owner for more than one year.

F. "Fair market rental value" means, for all uses of submerged lands except slip space rented or otherwise made available for private use for a fee, the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land as specified in this section. For slip space rented or otherwise made available for private use for a fee, the fair market rental value is the gross income from that space multiplied by a reduction factor as specified in this section based on the use of the leased submerged land.

G. "Gross income" means the total annual income received by a lessee from seasonal or transient rental to the general public of slip space over submerged land. For dockominiums, slips that are part of a residential condominium, boat clubs and other facilities with slip space that is not rented or leased to the general public, the director shall determine gross income by calculating a regional average slip space rental fee and applying that to the portion of total linear length of slip space made available to private users for any portion of that year.

H. "Slip space" means the area adjacent to a pier or float that is used for berthing a boat.

Sec. 2. 12 MRSA §558-A, sub-§2, ¶A, as repealed and replaced by PL 1989, c. 878, Pt. A, §30, is amended to read:

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures that occupy a total of 500 square feet or more of submerged land or occupy a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) The director shall charge the lessee a base rent that practically approximates the fair market rental value of the submerged land. ~~Fair market rental value shall be the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land. The reduction factors for use categories shall be~~ are as follows:

(a) A reduction factor of 0%, or no rental fee, for nonprofit organizations or publicly owned facilities that offer free public use or public use with nominal user fees. Public uses include, but are not limited to, municipal utilities and facilities that provide public access to the water, town wharves, walkways, fishing piers, boat launches, parks, nature reserves, swimming or skating areas and other projects designed to allow or enhance public recreation, fishing, fowling and navigation and for which user fees are used exclusively for the maintenance of the facility;

(b) A reduction factor of 1% for commercial fishing uses of renewable aquatic resources. Commercial uses of renewable aquatic resources include, but are not limited to, facilities which are directly involved in commercial fishing activities. Such facilities ~~shall~~ include, but are not ~~be~~ limited to, fish piers, lobster impoundments, fish processing facilities, ~~berthing for fishing boats~~ and floats or piers for the storage of gear. ~~To qualify as a commercial use of renewable aquatic resources, a marina must have at least 50% of its slips in use by commercial fishing boats year round;~~

(c) A reduction factor of 2% for any slip space rented or otherwise made available for private use by commercial fishing boats for a fee;

~~(e)~~ (d) A reduction factor of 2% for water dependent commerce, industry and private uses. Water dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, ~~cannot~~ can not reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities ~~shall~~ include, but are not be limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and the area within marinas that have less than 50% of their slips in use by commercial fishing boats year round occupied by service facilities, gas docks, breakwaters and other structures not used for slip space; and

(e) A reduction factor of 4% for any slip space rented or otherwise made available for private use for recreational boats for a fee. For facilities that include slip space under constructive easement, the rental fee may be reduced proportionally by the ratio of linear length of slip space within the area under constructive easement to the total linear length of all slip space within the facility; and

~~(d)~~ (f) A reduction factor of 10% for upland uses and fill. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or which are not essential to the operation of the marine industry. Such facilities ~~shall~~ include, but are not be limited to, residences, offices, restaurants and parking lots. Fill ~~shall~~ must include the placement of solid material other than pilings or other open support structures upon submerged lands.

When the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the director may require the applicant to provide an appraisal of the submerged land. The appraisal must be approved by the director;

(2) After October 1, 1990, the director may revalue all existing rents to full fair market rental value. Rents for all uses except slip space may be adjusted annually until the full fair market rental value is reached. Thereafter, the director may revalue rents for all uses except slip space every 5 years. Rents for slip space may fluctuate annually depending on the gross income of the facility;

(3) The director may also lease 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;

(4) Any existing or proposed lease may be subleased for the period of the original lease for the purpose of providing berthing space for any boat or vessel;

(5) No portion of an existing or proposed lease may be transferred from a person subleasing that portion to provide berthing space for any boat or vessel except for a transfer to heirs

upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph ~~shall~~ does not apply to any subleasing arrangements entered into prior to June 15, 1989; 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;
- (c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and
- (d) Will not unreasonably interfere with ingress and egress of riparian owners.

The bureau shall promulgate rules pertaining to this subparagraph by March 15, 1990.

Sec. 3. Effective date. This Act takes effect on October 1, 1991.

Effective October 1, 1991.

CHAPTER 431

H.P. 845 - L.D. 1211

An Act to Correct Certain Errors and Inconsistencies in the Law Enabling Municipal Development Districts

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

Sec. 1. 30-A MRSA §5252, sub-§4, ¶¶F and G, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

- F. The environmental controls to be applied; ~~and~~
- G. The proposed operation of the district after the planned capital improvements are completed; ~~and~~

Sec. 2. 30-A MRSA §5252, sub-§4, ¶H is enacted to read:

H. The duration of the program that must not exceed 30 years from the date of designation of the district.

Sec. 3. 30-A MRSA §5252, sub-§5, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. The statement must include:

- (1) Cost estimates for the development program;
- (2) The amount of ~~bonded~~ indebtedness to be incurred; and
- (3) Sources of anticipated revenues; ~~and~~
- (4) ~~The duration of the program.~~

Sec. 4. 30-A MRSA §5252, sub-§8, ¶B, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by amending sub-¶(9) and (10) to read:

- (9) That portion of the costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines or amenities on streets or the rebuilding or expansion of which is required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district; ~~and~~
- (10) Training costs, including, but not limited to, those costs associated with providing skills development and training for employees of businesses within the development district. These costs may not exceed 20% of the total project costs and must be designated as training funds within 3 years of the designation of the district; and

Sec. 5. 30-A MRSA §5252, sub-§8, ¶B, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by enacting sub-¶(11) to read:

- (11) Improvements, meaning costs associated with developing new employment opportunities; promoting public events; advertising cultural, educational and commercial activities; providing public safety; establishing and maintaining administrative and management support; and such other services as are necessary or appropriate to carry out the development program.

Sec. 6. 30-A MRSA §5253, sub-§1, as amended by PL 1989, c. 104, Pt. A, §47; Pt. C, §§8 and 10; and c.