

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Modify the City of Portland's Leasing Authority for the Maine State Pier

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

Sec. 1. Lease of submerged lands for period longer than 30 years. Notwithstanding the Maine Revised Statutes, Title 12, section 1862, subsection 2, the Director of the Bureau of Parks and Lands within the Department of Conservation shall lease submerged lands under and adjacent to the Maine State Pier and the Ocean Gateway Pier to the City of Portland, referred to in this Act as "the city," for a term of at least 75 years but no more than 99 years, subject to the following conditions:

1. The submerged lands under and adjacent to the Maine State Pier and the Ocean Gateway Pier, to which the city holds title by virtue of a deed from the State of Maine dated February 1, 1982, may not be sold by the city but may be subleased in accordance with the provisions of this Act;

2. The city shall manage such lands in trust for the benefit, rights and use of the general public. When conveying any interest in all or part of the submerged land, the city shall consider the effects of such conveyances on public trust rights; and

3. The city must be authorized under the lease to use the leased submerged lands for the purpose of maintaining and developing a public port and marine transportation services facility. With regard to the Maine State Pier, the city must be authorized to allow upland uses to be located on the pier that the city determines are an essential subsidiary use necessary to support the primary marine and public uses of the facility for which no reasonable alternative site is available. The city may determine that there is no reasonable alternative site available when the primary marine and public uses would not be sufficiently supported if a certain use is not located on the pier, thus rendering an alternative site unreasonable. Such use may not diminish the primary purpose of the pier as a marine port and public use facility.

Sec. 2. Reservation of rights. By entering into a long-term lease for the submerged lands under and adjacent to the Maine State Pier and the Ocean Gateway Pier, the city does not waive any claims to ownership it may have to those submerged lands by virtue of a deed from the State of Maine dated February 1, 1982 and recorded in the Cumberland County Registry of Deeds in Book 4916, Page 26.

SUMMARY

In 1982, as part of the public-private partnership among the State, Bath Iron Works and the City of Portland, the city purchased the port facilities that were used for an economic development project. That property is now in need of extensive and costly repairs, which will be difficult to fund with a short-term lease given the amount of money that will have to be invested in the project.

This bill requires the Director of the Bureau of Public Lands within the Department of Conservation to lease submerged lands under and adjacent to the port facilities to the City of Portland for not less than 75 years nor more than 99 years. It also makes it clear that the submerged lands may not be sold by the city but may be leased and that the use of the property is subject to the public trust doctrine. The bill also

imposes conditions on the use of the property that must be included in the lease and preserves the right of the city to pursue its claim of ownership to the submerged lands.