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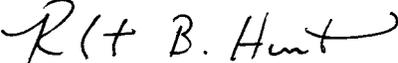
No. 1625

H.P. 1079

House of Representatives, April 15, 2025

An Act Regarding the Preservation of Working Waterfronts

Received by the Clerk of the House on April 11, 2025. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


ROBERT B. HUNT
Clerk

Presented by Representative MATHIESON of Kittery.
Cosponsored by Senator LAWRENCE of York and
Representative: MEYER of Eliot, Senator: GROHOSKI of Hancock.

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

2 **Sec. 1. 5 MRSA §6200**, as amended by PL 1993, c. 728, §2, is further amended to
3 read:

4 **§6200. Findings**

5 The Legislature finds that Maine is blessed with an abundance of natural resources
6 unique to the northeastern United States; that these natural resources provide Maine
7 residents and visitors to the State with an unparalleled diversity of outdoor ~~recreation~~
8 recreational and economic opportunities during all seasons of the year and a quality of life
9 unmatched in this nation; that the continued availability of public access to these ~~recreation~~
10 recreational and economic opportunities and the protection of the scenic and natural
11 environment are essential for preserving the State's high quality of life; that public
12 acquisition programs have not kept pace with the State's expanding population and
13 changing land use patterns so that Maine ranks low among the states in publicly owned
14 land as a percentage of total state area; that rising land values are putting the State's real
15 estate in shoreland and resort areas out of reach to most Maine citizens and that sensitive
16 lands and resources of statewide significance are currently not well protected and are
17 threatened by the rapid pace of development; and that public interest in the future quality
18 and availability for all Maine people of lands for recreation, economic activities and
19 conservation is best served by significant additions of lands to the public domain.

20 The Legislature further finds that Maine's private, nonprofit organizations, local
21 conservation commissions, local governments and federal agencies have made significant
22 contributions to the protection of the State's natural areas and that these agencies should be
23 encouraged to further expand and coordinate their efforts by working with state agencies
24 as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions
25 of high priority natural lands.

26 The Legislature declares that the future social and economic well-being of the citizens
27 of this State depends upon maintaining the quality and availability of working farmland for
28 farming, working waterfronts for commercial fishing, forest land for forestry and natural
29 areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic
30 functions and scenic beauty and that the State, as the public's trustee, has a responsibility
31 and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage
32 is passed on to future generations.

33 **Sec. 2. 5 MRSA §6201, sub-§1-A, ¶C**, as corrected by RR 2023, c. 2, Pt. B, §69,
34 is amended to read:

35 C. Municipal and private piers and wharves operated to provide waterfront access to
36 persons who fish commercially, aquaculturists ~~or~~ cooperatives of persons who fish
37 under a commercial license or persons providing direct services requiring the use of
38 working waterfront property.

39 **Sec. 3. 5 MRSA §6201, sub-§1-B**, as enacted by PL 2021, c. 398, Pt. FFFF, §1, is
40 amended to read:

41 **1-B. Community conservation project.** "Community conservation project" means a
42 conservation project of local or regional significance that promotes one or more of the
43 following: public outdoor recreational access to land and waters, including for underserved

1 populations; public health; connection between conserved lands and population centers;
2 local or regional agriculture; local or regional working waterfronts; conservation of cultural
3 and historical resources on undeveloped lands; protection of lakes, rivers or streams;
4 conservation of fish or wildlife habitat; protection of public drinking water supplies;
5 conservation of community forests; local economic development; opportunities for
6 environmental learning; nonmotorized transportation options; or other priorities as
7 determined by the board.

8 **Sec. 4. 5 MRSA §6201, sub-§5**, as enacted by PL 2011, c. 266, Pt. B, §2, is
9 amended to read:

10 **5. Working waterfront or working waterfront property.** "Working waterfront" or
11 "working waterfront property" means land, legally filled lands, aquatic habitat for
12 aquaculture purposes and piers and wharves and other improvements to land adjacent to
13 the navigable coastal waters of the State and used by a commercial fisheries business.

14 **Sec. 5. 5 MRSA §6203-G** is enacted to read:

15 **§6203-G. Maine Working Waterfront Preservation Fund**

16 **1. Fund established.** The Maine Working Waterfront Preservation Fund, referred to
17 in this section as "the fund," is established and is administered by the board, in cooperation
18 with the Commissioner of Marine Resources, pursuant to this chapter and Title 12, section
19 6043. The fund consists of the proceeds from the sale of bonds authorized for the purposes
20 set forth in subsection 3 and funds received as contributions from private and public sources
21 for those purposes. The fund must be held separate and apart from all other money, funds
22 and accounts, except that eligible investment earnings credited to the assets of the fund
23 become part of the assets of the fund. Any balance remaining in the fund at the end of a
24 fiscal year must be carried forward for the next fiscal year.

25 **2. Grants.** The board may make grants to state agencies and designated cooperating
26 entities for the purposes identified in subsection 3. Grants must be made according to rules
27 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
28 as defined in chapter 375, subchapter 2-A.

29 **3. Fund proceeds.** The proceeds of the fund may be applied and expended to prevent
30 the loss of existing working waterfront access, including, but not limited to, through the
31 acquisition of property interests in properties that are consistent with the requirements of
32 Title 12, section 6043. The board shall include as a condition of an acquisition or grant
33 made under this section the requirement that the protected property may not be used, altered
34 or developed in a manner that precludes its use by a commercial fisheries business
35 consistent with Title 33, chapter 6-A.

36 **4. Matching funds.** For each grant made under this section, the board shall require
37 the grant recipient to provide matching funds at least equal to the amount of the grant.
38 When grants are made to prevent the imminent loss of working waterfront access due to a
39 property sale or auction, the board may waive or defer the match in whole or in part.

40 **5. Uses of the fund.** When working waterfront property or an interest in working
41 waterfront property is acquired with proceeds from the fund, the board may fund minor
42 capital investments in the stewardship of that working waterfront property. Funds for
43 stewardship investments must be held in a dedicated stewardship endowment and identified
44 for use on the funded working waterfront property.

1 A. The stewardship investments may not exceed 20% of the appraised value of the
2 acquired working waterfront property.

3 B. When an interest in working waterfront is acquired with proceeds from the fund,
4 the board may fund minor capital improvements on the working waterfront and on
5 adjoining working waterfront in the same ownership or under the same management to
6 improve public access, as long as these improvements do not exceed 20% of the
7 appraised value of the acquired working waterfront property.

8 C. When an interest in working waterfront is acquired with proceeds from the fund,
9 the board may fund the development of a business plan to provide for the working
10 waterfront's continuing use as working waterfront, as long as these costs to develop the
11 business plan do not exceed 10% of the appraised value of the acquired working
12 waterfront property.

13 **6. Determination of statewide or regional significance.** In determining whether a
14 proposed acquisition must be funded, in full or in part, by the fund, the board shall consider
15 whether the site is of statewide or regional significance and preserves access to the State's
16 navigable coastal waters and aquatic habitat for commercial fisheries businesses.

17 **7. Priorities.** Whenever possible, the fund must be used for a working waterfront
18 project with identified cooperating entities, as long as the proposed project meets all other
19 criteria set forth in this section. For acquisitions funded by the fund, the board shall give
20 priority to working waterfront projects that are determined to be of statewide or regional
21 significance and that preserve access to the State's navigable coastal waters and aquatic
22 habitat for commercial fisheries businesses.

23 When evaluating working waterfront projects to be funded, the board shall give a
24 preferential consideration to projects that provide access to working waterfront that has
25 been determined by the Commissioner of Marine Resources to be important for conserving,
26 preserving and protecting access to the working waterfront. To be given preferential
27 consideration under this paragraph, a project must result in the acquisition of a fee simple,
28 a fee interest or an easement interest in the working waterfront, the cooperating entity's
29 holding the working waterfront or interest in the working waterfront and the holding entity's
30 ability to manage the working waterfront as working waterfront. Only projects that satisfy
31 the requirements of this paragraph may be given preferential consideration. This paragraph
32 does not limit the ability of the board to use the fund to fund other projects that may also
33 help preserve or protect working waterfront but that do not receive preferential
34 consideration under this paragraph.

35 **Sec. 6. 5 MRSA §6209**, as amended by PL 2023, c. 284, §§16 and 17, is further
36 amended by amending the section headnote to read:

37 **§6209. ~~Ownership; title; management~~ Fee title; evaluation; legislative approval;**
38 **authority to encumber**

39 **Sec. 7. 5 MRSA §6209, sub-§1**, as amended by PL 2023, c. 284, §16, is further
40 amended to read:

41 **1. Uses of funds.** The board may use the Land for Maine's Future Trust Fund, the
42 Conservation and Recreation Fund, the Maine Working Waterfront Preservation Fund and
43 the Public Access to Maine Waters Fund to acquire real property in both fee and less-than-
44 fee simple interest, including, but not limited to, conservation easements, access easements,

1 scenic easements, other permanent interests in land and long-term leases of at least 99 years
2 as long as those acquisitions are primarily working farmland for farming, working
3 waterfronts for commercial fishing, forest land for forestry or natural lands meeting the
4 criteria set forth in this chapter.

5 **Sec. 8. 5 MRSA §6209, sub-§2-A** is enacted to read:

6 **2-A. Fee title.** Fee title to all interests in land acquired pursuant to this chapter must
7 be clear to ensure that the State's interests in funding the acquisition are protected.

8 **Sec. 9. 5 MRSA §6209, sub-§5,** as amended by PL 2023, c. 284, §17, is further
9 amended to read:

10 **5. Land evaluated.** All lands acquired with money from the Land for Maine's Future
11 Trust Fund, the Conservation and Recreation Fund, the Maine Working Waterfront
12 Preservation Fund or the Public Access to Maine Waters Fund must be evaluated for rare,
13 threatened or endangered species of plants and animals, exemplary natural communities,
14 features of historic significance and other high priority natural features and ecologic
15 functions as determined by the board, with reference to the best inventory data available to
16 the State. Subsequent management by state agencies holding properties found to have such
17 important features and functions must reflect the objective of maintaining and protecting
18 those features and functions.

19 **Sec. 10. 12 MRSA §6043** is enacted to read:

20 **§6043. Maine Working Waterfront Preservation Program**

21 **1. Program established; administration.** The Maine Working Waterfront
22 Preservation Program, referred to in this section as "the program," is established to preserve
23 strategically significant working waterfront property from redevelopment for purposes that
24 are not related to working waterfront uses and whose continued availability to commercial
25 fisheries businesses is essential to the long-term future of the economic sector. The
26 department shall administer the program either directly or by contract with a suitable
27 organization.

28 **2. Review panel.** The department shall organize a review panel to advise the
29 commissioner in the operation of the program, including, but not limited to, evaluating
30 applications and recommending to the department applicants for participation in the
31 program.

32 **3. Selection criteria.** The selection criteria with which to evaluate applications for
33 protection of working waterfront property must include, but are not limited to:

34 A. The economic significance of the working waterfront property to the commercial
35 fisheries business in the immediate vicinity and in the State as a whole;

36 B. The availability of alternative working waterfront property in the vicinity available
37 to absorb commercial fisheries business operations if displaced;

38 C. The degree of community support for the proposed preservation;

39 D. The probability of conversion of the working waterfront property to uses
40 incompatible with commercial fisheries businesses;

41 E. The utility of the working waterfront property for commercial fisheries business
42 uses in terms of its natural characteristics and developed infrastructure; and

1 F. The utility of the working waterfront property for the future sustainability, resiliency
2 and evolution of commercial fisheries businesses in the immediate vicinity, in the
3 region and in the State as a whole.

4 **4. Grant agreements.** The commissioner shall enter into grant agreements with state
5 agencies and designated cooperating entities for the purpose of receiving grants from the
6 Maine Working Waterfront Preservation Fund under Title 5, section 6203-G.

7 **5. Right of first refusal.** The commissioner shall retain a permanent right of first
8 refusal on any working waterfront property acquired in fee or protected by covenant or
9 other less-than-fee interests under Title 5, section 6203-G. Exercise of the right of first
10 refusal must be at a price determined by an independent professional appraiser based on
11 the value of the working waterfront property to a commercial fisheries business at the time
12 of the exercise of the right. The commissioner may assign this right to a commercial
13 fisheries business or to a local government if, in the commissioner's judgment, such an
14 assignment is consistent with the purposes of this section.

15 **6. Termination.** If the commissioner determines that the public purposes of a grant
16 made under subsection 4 are no longer served, the commissioner may, consistent with Title
17 33, chapter 6-A, terminate a grant agreement made under subsection 4 conditional on
18 repayment of the original grant amount or an amount equal to that proportion of the then-
19 current value of the protected property that represents the ratio of the original grant amount
20 to the original fee interest value at the time of the grant. Any funds recovered under this
21 subsection must be deposited into the Maine Working Waterfront Preservation Fund under
22 Title 5, section 6203-G and may be expended only for the purposes of this section.

23 SUMMARY

24 This bill establishes the Maine Working Waterfront Preservation Program and the
25 Maine Working Waterfront Preservation Fund to preserve strategically significant working
26 waterfront property from redevelopment for purposes that are not related to working
27 waterfront uses and whose continued availability to commercial fisheries businesses is
28 essential to the long-term future of the economic sector. It directs the Department of
29 Marine Resources to administer the program either directly or by contract with a suitable
30 organization.