



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 1072

S.P. 458

In Senate, March 18, 2025

**An Act to Amend the Laws Governing the Land for Maine's Future
Program and to Authorize the Use of Options to Purchase at
Agricultural Value**

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Received by the Secretary of the Senate on March 14, 2025. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §6200, 3rd ¶**, as enacted by PL 1987, c. 506, §§1 and 4, is
4 amended to read:

5 The Legislature declares that the future social and economic well-being of the citizens
6 of this State depends upon maintaining the quality and availability of working lands for
7 farming, commercial fishing and forestry and natural areas for recreation, hunting and
8 fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that
9 the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and
10 coordinated policy to assure that this Maine heritage is passed on to future generations.

11 **Sec. A-2. 5 MRSA §6201, sub-§2-A** is enacted to read:

12 **2-A. Interest in property.** "Interest in property" means both fee and less-than-fee
13 simple interest and includes, but is not limited to, conservation easements, access
14 easements, scenic easements, other permanent interests in land and long-term leases of at
15 least 99 years as long as the interest is primarily in natural lands meeting the criteria set
16 forth in this chapter.

17 **Sec. A-3. 5 MRSA §6203-A, sub-§2**, as repealed and replaced by PL 2023, c. 284,
18 §5, is amended to read:

19 **2. Grants; matching funds.** The board may make grants to state agencies and
20 ~~designated~~ cooperating entities for the purposes identified in subsection 3. For each grant
21 made under this subsection, the board shall require the grant recipient to provide matching
22 funds at least equal to the amount of the grant. Grants must be made according to rules
23 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
24 as defined in chapter 375, subchapter 2-A.

25 **Sec. A-4. 5 MRSA §6203-B, sub-§2**, as enacted by PL 2011, c. 266, Pt. B, §3, is
26 amended to read:

27 **2. Grants.** The board may make grants to state agencies and ~~designated~~ cooperating
28 entities for the purposes identified in subsection 3. Grants are made according to rules
29 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
30 as defined in Title 5, chapter 375, subchapter 2-A.

31 **Sec. A-5. 5 MRSA §6203-C, sub-§2**, as enacted by PL 2021, c. 135, §4, is
32 amended to read:

33 **2. Grants.** The board may make grants to state agencies and ~~designated~~ cooperating
34 entities for the purposes identified in subsection 3. Grants are made according to rules
35 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
36 as defined in chapter 375, subchapter 2-A.

37 **Sec. A-6. 5 MRSA §6203-E, sub-§2**, as enacted by PL 2023, c. 284, §9, is amended
38 to read:

39 **2. Grants; matching funds.** The board may make grants to state agencies and
40 ~~designated~~ cooperating entities for the purposes identified in subsection 3. For each grant
41 made under this subsection, the board shall require the grant recipient to provide matching

1 funds at least equal to the amount of the grant. Grants must be made according to rules
2 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
3 as defined in chapter 375, subchapter 2-A.

4 **Sec. A-7. 5 MRSA §6203-F, sub-§2**, as enacted by PL 2023, c. 284, §10, is
5 amended to read:

6 **2. Grants; matching funds.** The board may make grants to state agencies and
7 ~~designated~~ cooperating entities for the purposes identified in subsection 3. For each grant
8 made under this subsection, the board shall require the grant recipient to provide matching
9 funds at least equal to the amount of the grant. Grants must be made according to rules
10 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules
11 as defined in chapter 375, subchapter 2-A.

12 **Sec. A-8. 5 MRSA §6206-A**, as amended by PL 1993, c. 728, §9, is further amended
13 to read:

14 **§6206-A. Nominations Public notice of final award**

15 ~~Prior to taking an action to designate land for negotiation for acquisition, the board~~
16 ~~shall send by certified mail or otherwise deliver a notice of this intention to the owner or~~
17 ~~owners of land within the area proposed by the board for acquisition, as the identity and~~
18 ~~address of such owner or owners is shown on the tax maps or other tax records of the~~
19 ~~municipality in which the land is located. If the land is located within the unorganized~~
20 ~~territory, notice must be sent to the owner or owners as shown on the tax maps or other tax~~
21 ~~records of the State Tax Assessor. After the completion of negotiations determining a final~~
22 ~~award, the board shall publish a notice of its intent to designate land for acquisition fund~~
23 ~~the purchase of land offered for acquisition in a newspaper or newspapers of general~~
24 ~~circulation that identifies the land proposed by the board for acquisition funding and that~~
25 ~~notifies the residents of the area that the board will accept public comments on the proposed~~
26 ~~acquisition award.~~

27 ~~Any owner of land that has been nominated for acquisition and is subject to the notice~~
28 ~~requirements of this section may submit a properly sworn affidavit to the board indicating~~
29 ~~the owner's unwillingness to sell. The affidavit is notice to the board that continued~~
30 ~~evaluation of that land is inappropriate and, unless the board intends to acquire an interest~~
31 ~~in the land through the use of eminent domain pursuant to section 6207-A, the board may~~
32 ~~not consider that land for acquisition.~~

33 **Sec. A-9. 5 MRSA §6207, sub-§2**, as amended by PL 2023, c. 284, §15, is further
34 amended to read:

35 **2. Determination of statewide significance.** In determining whether a proposed
36 acquisition ~~must~~ may be funded, in full or in part, by the Land for Maine's Future Trust
37 Fund, the Conservation and Recreation Fund or the Public Access to Maine Waters Fund,
38 the board shall consider whether the site is of statewide significance and:

39 A. Contains recreation lands, prime physical features of the Maine landscape, areas of
40 special scenic beauty, farmland or open space, undeveloped shorelines, significant
41 undeveloped archeological sites, wetlands, fragile mountain areas or lands with other
42 conservation, wilderness or recreation values;

- 1 B. Is habitat for plant or animal species or natural communities considered rare,
2 threatened or endangered in the State;
- 3 C. Provides nonmotorized or motorized public access to recreation opportunities or
4 those natural resources identified in this section;
- 5 D. Provides public water supply protection when that purpose is consistent and does
6 not conflict with the natural resource conservation and recreation purposes of this
7 chapter; or
- 8 E. Contains deer wintering areas and satisfies all the requirements of subsection 3,
9 paragraph A.

10 **Sec. A-10. 5 MRSA §6207, sub-§4, ¶C**, as amended by PL 1993, c. 728, §10, is
11 further amended to read:

12 C. The acquisition of a fee interest in land of which the primary use value has been
13 and will be as commercially harvested or harvestable forest land.

14 **Sec. A-11. 5 MRSA §6209**, as amended by PL 2023, c. 284, §§16 and 17, is further
15 amended to read:

16 **§6209. ~~Ownership; title; management~~ Fee title; evaluation; legislative approval;
17 authority to encumber**

18 ~~1. **Uses of funds.** The board may use the Land for Maine's Future Trust Fund, the~~
19 ~~Conservation and Recreation Fund and the Public Access to Maine Waters Fund to acquire~~
20 ~~real property in both fee and less than fee simple interest, including, but not limited to,~~
21 ~~conservation easements, access easements, scenic easements, other permanent interests in~~
22 ~~land and long-term leases of at least 99 years as long as those acquisitions are primarily~~
23 ~~natural lands meeting the criteria set forth in this chapter.~~

24 ~~2. **Title** Fee title. Title Fee title to all lands interests in land acquired pursuant to this~~
25 ~~chapter must be vested solely in the State. Management responsibilities for the acquired~~
26 ~~lands may be contracted by the land-owning state agency to cooperating entities, subject to~~
27 ~~appropriate lease arrangements, upon the recommendation of the agency's commissioner~~
28 ~~and approval of the board clear to ensure that the State's interests in funding the acquisition~~
29 ~~are protected.~~

30 ~~3. **Matching funds.** When matching funds for a project include cash not derived from~~
31 ~~a bond request, an allocation of up to 20% of the appraised value of the acquired land or~~
32 ~~the amount of cash, whichever is less, may be put into the stewardship account of the state~~
33 ~~agency holding title to the land.~~

34 ~~4. **Payments.** Payments from the fund may be made to cooperating entities for~~
35 ~~qualifying lands acquired on behalf of the State, provided that a state agency has issued to~~
36 ~~the cooperating entity a letter of intent requesting assistance in the acquisition. Upon~~
37 ~~submission to the state agency of a cooperating entity's direct expenses for acquisition and~~
38 ~~related costs of an authorized acquisition, the board shall authorize payment of those~~
39 ~~expenses, provided that the total of all expenses does not exceed the appraised value of the~~
40 ~~acquired property. Expenses must be paid at intervals during the acquisition process, as~~
41 ~~determined by the board.~~

42 ~~5. **Land evaluated.** All lands interests in property acquired with money from the Land~~
43 ~~for Maine's Future Trust Fund, the Conservation and Recreation Fund or the Public Access~~

1 to Maine Waters Fund must be evaluated for rare, threatened or endangered species of
2 plants and animals, exemplary natural communities, features of historic significance and
3 other high priority natural features and ecologic functions as determined by the board, with
4 reference to the best inventory data available to the State. Subsequent management by state
5 agencies holding properties found to have such important features and functions must
6 reflect the objective of maintaining and protecting those features and functions.

7 **6. Legislative Fee title legislative approval.** Except as provided in subsection 7, fee
8 interests in land acquired under this chapter may not be sold or used for purposes other than
9 those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

10 **7. Conveyance of an access easement across a rail trail.** Notwithstanding any ~~other~~
11 provision of law to the contrary, the Director of the Bureau of Parks and Lands within the
12 Department of Agriculture, Conservation and Forestry, with the approval of the Governor
13 and the Commissioner of Agriculture, Conservation and Forestry, may sell or otherwise
14 convey in accordance with Title 12, section 1814-A access rights by easement across a rail
15 trail acquired under this chapter.

16 For the purposes of this subsection, "rail trail" means a former railroad right-of-way in
17 which the Department of Agriculture, Conservation and Forestry holds an ownership
18 interest and that is:

19 A. No longer used for rail service; and

20 B. Managed by the Department of Agriculture, Conservation and Forestry for use as a
21 recreational trail.

22 **Sec. A-12. 5 MRSA §6210, first ¶**, as enacted by PL 1989, c. 485, §3, is amended
23 to read:

24 If the board transfers in writing to any local or federal agency any written information
25 acquired by the board under this chapter concerning any land, the board ~~shall~~ may, upon
26 transfer, notify the landowner of the transfer by certified mail.

27 **PART B**

28 **Sec. B-1. 33 MRSA c. 6-B** is enacted to read:

29 **CHAPTER 6-B**

30 **OPTIONS TO PURCHASE AT AGRICULTURAL VALUE**

31 **§141. Definitions**

32 As used in this chapter, unless the context otherwise indicates, the following terms
33 have the following meanings.

34 **1. Option to purchase at agricultural value.** "Option to purchase at agricultural
35 value" means any agreement in recordable form between the fee owner of working
36 farmland property and one or more qualified holders that permits a qualified holder to
37 control, either directly or indirectly, the purchase price of the working farmland property
38 for the primary purpose of making available and affordable, and preserving the permanent
39 availability and affordability of, that property for working farmland.

- 1 **2. Qualified holder or holder.** "Qualified holder" or "holder" means:
2 A. A governmental entity authorized to hold an interest in real property;
3 B. A nonprofit organization organized under state law whose purposes include the
4 permanent protection of working farmland or the enlargement of working farmland
5 opportunities for farmers; or
6 C. A nonprofit organization organized under state law whose purposes or powers
7 include retaining or protecting working farmland or providing access to working
8 farmland.

9 **3. Third-party right of enforcement.** "Third-party right of enforcement" means a
10 right provided in an option to purchase at agricultural value to enforce any of its terms
11 granted by the grantor and holder of the option to purchase at agricultural value to a
12 governmental entity or nonprofit organization that meets the qualifications of a holder.

13 **4. Working farmland or working farmland property.** "Working farmland" or
14 "working farmland property" has the same meaning as in Title 5, section 6201, subsection
15 4-A.

16 **§142. Creation; conveyance; acceptance; duration; filing**

17 **1. Option to purchase at agricultural value.** Except as otherwise provided in this
18 chapter, an option to purchase at agricultural value may be created, conveyed, recorded,
19 assigned, released, modified, terminated or otherwise altered or affected in the same
20 manner as other options to purchase real property created by written instrument. An option
21 to purchase at agricultural value may include a 3rd-party right of enforcement and may be
22 incorporated into an agricultural easement or be an independent document suitable for
23 recording.

24 **2. Right or duty.** A right or duty in favor of or against a qualified holder may not
25 arise under an option to purchase at agricultural value unless it is accepted in writing by
26 the qualified holder.

27 **3. Limitation.** Except as provided in this chapter, an option to purchase at agricultural
28 value is unlimited in duration unless a change of circumstances renders the option to
29 purchase at agricultural value no longer in the public interest as determined in an action
30 under section 143, subsection 2.

31 **4. Filing.** An option to purchase at agricultural value must be recorded in the county
32 registry of deeds, and a copy of the recorded option to purchase at agricultural value must
33 be filed with the Department of Agriculture, Conservation and Forestry together with a
34 map showing with specificity the location of the affected property on the form or forms
35 that the department requires.

36 **5. Other interest.** An interest in real property in existence at the time an option to
37 purchase at agricultural value is created is not affected by the option to purchase at
38 agricultural value unless the fee owner of the interest is a party to the option to purchase at
39 agricultural value or consents to the option to purchase at agricultural value.

40 **6. Right to enter real property.** The written instrument creating an option to purchase
41 at agricultural value must designate how and when representatives of the holder of an
42 option to purchase at agricultural value are entitled to enter the real property to ensure
43 compliance.

1 **§143. Judicial actions**

2 **1. Fee owners; qualified holders.** An action affecting an option to purchase at
3 agricultural value may be brought or intervened in by:

4 A. A fee owner of an interest in the real property burdened by the option to purchase
5 at agricultural value;

6 B. A qualified holder of the benefit of the option to purchase at agricultural value;

7 C. The municipality in which the real property burdened by the option to purchase at
8 agricultural value is located; or

9 D. The Attorney General.

10 **2. Power of court.** The court has the following powers.

11 A. The court may enforce an option to purchase at agricultural value by injunction or
12 other proceeding at law or in equity.

13 B. Acting in accordance with charitable trust principles, the court may modify,
14 terminate or deny equitable enforcement of an option to purchase at agricultural value
15 in an action brought by a party under subsection 1. In taking such an action, the court
16 must find that, due to a change in circumstance, the option to purchase at agricultural
17 value no longer serves the public interest in protecting or enhancing the protection of
18 working farmland or related businesses of the State. The Attorney General must be
19 made a party to any action under this paragraph, and written notice must be provided
20 to the Commissioner of Agriculture, Conservation and Forestry.

21 C. If the court modifies, terminates or denies equitable enforcement of an option to
22 purchase at agricultural value, the court may order payment by the fee owner of money
23 or other damages to the holder or the State. The holder or the State shall apply the
24 same in a manner consistent with the purposes of this law as approved by the court.

25 The fact that a working farmland property might be used for more valuable economic
26 purposes may not be considered when determining whether an option to purchase at
27 agricultural value is no longer in the public interest.

28 **§144. Scope of option to purchase at agricultural value**

29 An option to purchase at agricultural value may include any of the following
30 agreements affecting working farmland property:

31 **1. Resale price of working farmland property.** Limitations on the resale price of
32 working farmland property, which may include provisions for payments to the holder;

33 **2. Amount of equity appreciation.** Limitations on the amount of equity appreciation
34 that a fee owner may derive from ownership of working farmland property;

35 **3. Improvements to working farmland property.** Limitations on the type, extent,
36 use or dollar value of improvements that may be made to working farmland property;

37 **4. Uses to which working farmland property may be devoted.** Restrictions on the
38 uses to which working farmland property may be devoted, which must be consistent with
39 the purposes of this chapter;

1 **5. Options to purchase.** The grant of rights of first refusal or options to purchase to
2 qualified holders or their assigns, subject to the terms and conditions of the option to
3 purchase at agricultural value;

4 **6. Maintenance and insurance of working farmland property.** The obligation to
5 maintain, operate and insure working farmland property;

6 **7. Construction and materials.** The right to restrict or specify types of buildings,
7 structures and materials that may be used in improvements on working farmland property;

8 **8. Acts that may enhance affordability of working farmland property.** The right
9 to prohibit, limit or require other acts that may enhance or allow the affordability and
10 availability of working farmland property over time to beginning farmers in the future. For
11 the purposes of this subsection, "beginning farmer" means an individual who has not
12 operated a farm for more than 10 years; and

13 **9. Right of qualified holders to enter and inspect.** In accordance with section 142,
14 subsection 6, the right to provide qualified holders periodic entry and inspection of
15 farmland real property at reasonable times and after reasonable notice.

16 **§145. Validity**

17 An option to purchase at agricultural value is valid and enforceable, notwithstanding
18 any of the following conditions.

19 **1. Not appurtenant to interest in real property.** The option to purchase at
20 agricultural value is not appurtenant and does not run with an interest in real property.

21 **2. Assignable to another holder.** The option to purchase at agricultural value can be
22 or has been assigned to another qualified holder.

23 **3. Not recognized at common law.** The option to purchase at agricultural value is
24 not of a character traditionally recognized at common law.

25 **4. Imposes negative burden.** The option to purchase at agricultural value imposes a
26 negative burden.

27 **5. Imposes affirmative obligations.** The option to purchase at agricultural value
28 imposes affirmative obligations upon the fee owner of an interest in the burdened property
29 or the qualified holder.

30 **6. Benefit does not touch or concern real property.** The benefit of the option to
31 purchase at agricultural value is held by a qualified holder who has not retained property
32 that would benefit from enforcement of the option to purchase at agricultural value, or the
33 benefit does not touch or concern real property in any other way.

34 **7. No privity of estate or contract.** There is no privity of estate or privity of contract.

35 **8. Does not run to successors or assigns.** The option to purchase at agricultural value
36 does not run to the successors or assigns of the qualified holder.

37 **9. Unreasonable restraint on alienability.** The option to purchase at agricultural
38 value may be considered to be an unreasonable restraint on alienability.

39 **10. Violation of rule against perpetuities.** The option to purchase at agricultural
40 value may violate the rule against perpetuities.

41 **§146. Application**

1 1. Interest created after effective date. This chapter applies to any interest that
2 complies with this chapter created after the effective date of this chapter, whether
3 designated as an option to purchase at agricultural value or an equitable servitude,
4 restriction, easement or other interest in the property.

5 2. Option to purchase at agricultural value created before effective date. This
6 chapter applies to any option to purchase at agricultural value created before the effective
7 date of this chapter if the option to purchase at agricultural value would have been
8 enforceable had it been created after the effective date of this chapter, unless retroactive
9 application contravenes the Constitution of Maine or the United States Constitution.

10 3. Chapter does not invalidate interest. This chapter does not invalidate any interest,
11 whether designated as an option to purchase at agricultural value or an equitable servitude,
12 restriction, easement or other interest in property, that is otherwise enforceable under other
13 laws of this State.

14 PART C

15 **Sec. C-1. 33 MRSA §479-C,** as amended by PL 2017, c. 475, Pt. A, §56, is further
16 amended to read:

17 **§479-C. Conservation lands registry reporting**

18 A For each conservation easement and each parcel owned in fee for conservation
19 purposes in the State, the holder of a the conservation easement or a and the fee owner of
20 each parcel of land for conservation purposes that is organized or doing business in the
21 State shall annually report to the Department of Agriculture, Conservation and Forestry the
22 book and page number at the registry of deeds for each conservation easement that it holds
23 or each parcel owned in fee for conservation purposes department, the municipality, the
24 approximate number of acres protected under each easement or parcel owned, the
25 approximate number of acres that are exempt from taxation pursuant to Title 36, section
26 652 for which the municipality or county does not receive payments in lieu of taxes and
27 such other information as the Department of Agriculture, Conservation and Forestry
28 department determines necessary to fulfill the purposes of this subchapter. The filing report
29 must be made by a date and on forms in the form established by the Department of
30 Agriculture, Conservation and Forestry department to certify the accuracy of the
31 conservation easement holder's or fee owner's information, avoid duplicative filings when
32 possible, provide public access to the information reported and otherwise reduce
33 administrative burdens. The department is authorized to adopt a form of reporting that
34 results in the creation of a geographic information system map layer that displays the
35 information required by this section. The annual filing certification must be accompanied
36 by an \$80 fee. The Department of Agriculture, Conservation and Forestry department shall
37 maintain a permanent current record of the registration these reporting requirements in a
38 form conducive to public dissemination of the information and shall report to the Attorney
39 General any failure of a holder of a conservation easement disclosed by the filing or
40 otherwise known to the Department of Agriculture, Conservation and Forestry department.
41 The fees established under this section must be held by the Department of Agriculture,
42 Conservation and Forestry department in a nonlapsing, special account to defray the costs
43 of maintaining the registry reported information and carrying out its duties under this
44 section. For the purposes of this section, "department" means the Department of
45 Agriculture, Conservation and Forestry.

1 **SUMMARY**

2 Part A of this bill amends the laws governing the Land for Maine's Future program and
3 the Land for Maine's Future Board within the Department of Agriculture, Conservation and
4 Forestry in the following ways.

5 1. It defines "interest in property" to include both fee and less-than-fee simple interest
6 for purposes of acquiring property and interests in property.

7 2. It requires the board to provide public notice of its intent to determine the final
8 award for the land offered for acquisition.

9 3. It authorizes the board to use its discretion in determining whether to make an award.

10 4. It provides that the board may not fund the acquisition of a fee interest in land used
11 for commercially harvested or harvestable forest land. Current law does not specify that to
12 be prohibited the acquisition must be of a fee interest.

13 5. It repeals redundant and conflicting provisions of law regarding how the board may
14 use certain funds.

15 6. It requires that land acquired by the board have clear title.

16 7. It removes redundant references to matching requirements and payments to
17 cooperating entities.

18 Part B of the bill authorizes the creation of an option to purchase at agricultural value,
19 which is defined in the bill as an agreement between a fee owner of working farmland
20 property and a governmental entity or nonprofit organization that permits the governmental
21 entity or nonprofit organization to control the purchase price of working farmland property
22 for the purpose of making available and affordable and preserving the permanent
23 availability and affordability of that property as working farmland.

24 Part C of the bill amends the law regarding reporting requirements for conservation
25 easements and parcels of land owned in fee for conservation purposes.