

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 1149 - L.D. 1722

An Act to Amend the Laws Governing the Regulation of Aquaculture Leases

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the process that an applicant for an aquaculture lease goes through is extremely rigorous and, for various reasons, the application process can take years; and

Whereas, the administrative burden of processing applications for Department of Marine Resources staff is significant, contributing to the long wait times; and

Whereas, this legislation seeks to simplify the administrative procedures the department must go through in an effort to reduce wait times for lease applicants; and

Whereas, it is important that this legislation take effect immediately to reduce barriers to entry for applicants as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6072, sub-§12, as amended by PL 2023, c. 564, §5, is further amended to read:

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, ~~at least 30 days~~ prior to the expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term. If the renewal application is received after the expiration of a lease but within 30 days of the date of expiration, the application must include a nonrefundable \$500 late fee in order for the application to be accepted. The late fee may be waived by the commissioner if a substantial illness or medical condition prevented the leaseholder from submitting the application prior to the date of expiration. The applicant shall provide the commissioner with documentation from a physician describing the substantial illness or medical condition.

The commissioner may not process an application received more than 30 days after the expiration of a lease, and the applicant's lease expires;

B. The lessee has complied with the lease agreement during the term of the lease. The department shall consider the compliance record of the leaseholder. For the purposes of this paragraph, "compliance record" means department aquaculture inspection reports and enforcement actions as they relate to the operation of an aquaculture lease;

C. The commissioner determines that renewal of the lease is in the best interest of the State;

D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and

E. The lease is not being held for speculative purposes.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 120 days after the date of the commissioner's decision and the leaseholder is responsible for removing all gear and products. If a renewal application is not received by the department within 30 days after the expiration of a lease, the leaseholder is responsible for removing all gear and products within 120 days.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

~~A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given to the entities required to receive notice under subsection 6. A person may provide to the commissioner comments on the proposed lease renewal by the 30-day deadline specified in the applicable notice to the entities required to receive notice under subsection 6 or within 30 days of publication of the proposed renewal. A hearing must be held if it is requested in writing by 10 persons within the 30 days. The commissioner may review multiple leases concurrently during the lease renewal process.~~

A lease renewal is not an adjudicatory proceeding. Upon determining that the renewal application is complete, the commissioner shall provide notice of the application to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the lease is located. The applicant shall provide the names and addresses of known owners of riparian land within 1,000 feet of the location of the lease. The names and addresses must be taken from the current property tax roster on file at the local municipal office or, for an unorganized territory, with the Department of Administrative and Financial Services, Bureau of Revenue Services. The commissioner shall publish a summary of the application in a newspaper of general circulation in the area of the State in which the lease is located. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this subsection. A person may provide comments to the commissioner on the application by the 30-day deadline specified in the applicable notice to owners of riparian land or municipal officers or within 30 days of publication of the newspaper notice.

A lease renewal application must include a nonrefundable application fee of no more than \$1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

Sec. 2. 12 MRSA §6072, sub-§12-D, as enacted by PL 2023, c. 564, §7, is repealed and the following enacted in its place:

12-D. Conversion of limited-purpose lease for commercial purposes. A person who holds a limited-purpose lease for commercial purposes pursuant to section 6072-A may apply to convert that lease to a lease under this section as long as the application is for the same lease area and same operations authorized by the limited-purpose lease. The commissioner shall convert the limited-purpose lease as soon as possible following receipt of a complete application that meets the requirements of this subsection.

Sec. 3. 12 MRSA §6072-A, sub-§18, as amended by PL 2023, c. 564, §11, is repealed.

Sec. 4. 12 MRSA §6072-A, sub-§18-A is enacted to read:

18-A. Scientific lease renewal. A limited-purpose lease for scientific research may be renewed. The commissioner shall renew the lease if:

A. The commissioner receives, prior to the expiration of a lease, an application for renewal that includes information on the type of aquaculture research to be conducted during the new lease term. If the renewal application is received after the expiration of a lease but within 30 days of the date of expiration, the application must include a nonrefundable \$500 late fee in order for the application to be accepted. The late fee may be waived if a substantial illness or medical condition prevented the leaseholder from submitting the application within 30 days of the date of expiration. The leaseholder shall provide the commissioner with documentation from a physician describing the substantial illness or medical condition. The commissioner may not process applications received more than 30 days after the expiration of a lease, and the lease expires;

B. The lessee has complied with the lease agreement during the term of the lease. The department shall consider the compliance record of the leaseholder and information received from the public in making this determination. For the purposes of this paragraph, "compliance record" means department aquaculture reports and enforcement actions as they relate to the operation of an aquaculture lease;

C. The commissioner determines that renewal of the lease is in the best interest of the State;

D. Except as provided in section 6072, subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and

E. Research has been conducted during the term of the lease.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 120 days after the date of the commissioner's decision and the leaseholder is responsible for removing all gear and products. If a renewal

application is not received by the department 30 days after the expiration of a lease, the leaseholder is responsible for removing all gear and products within 120 days.

When aquaculture research has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal continues to meet the criteria for approval described in subsection 13.

Sec. 5. 12 MRSA §6072-A, sub-§20-A, as enacted by PL 2023, c. 564, §12, is amended to read:

20-A. Extension for conversion of a commercial lease. If a person who holds a limited-purpose lease for commercial aquaculture research and development submits an application under section 6072, subsection 12-D for that same lease area and the same operations before the expiration of that limited-purpose lease, or within 30 days of the expiration and accompanied by a nonrefundable late fee of \$500, and if the commissioner does not make a decision under section 6072, subsection 12-D before the expiration of that limited-purpose lease, the limited-purpose lease remains in effect until the commissioner makes a decision under section 6072, subsection 12-D. The late fee may be waived if a substantial illness or a medical condition prevented the leaseholder from submitting the application within 30 days of the date of expiration. The applicant shall provide the commissioner with documentation from a physician describing the substantial illness or medical condition. If the commissioner grants the person a lease under section 6072, subsection 12-D, that person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072, subsection 12-D. If the commissioner denies that person a lease under section 6072, subsection 12-D, that person's limited-purpose lease remains in effect until ~~30~~ 120 days after the commissioner's decision. The commissioner may not process applications under section 6072, subsection 12-D received more than 30 days after the expiration of a lease, and the leaseholder is responsible for removing all gear and products within 120 days.

Sec. 6. Department of Marine Resources to amend rules and forms. The Department of Marine Resources shall amend its rules and modify forms as necessary to reflect the changes made by this Act related to the renewal of aquaculture leases under the Maine Revised Statutes, Title 12, sections 6072 and 6072-A and the conversion of a limited-purpose lease for commercial aquaculture research and development under Title 12, section 6072, subsection 12-D.

Sec. 7. Application. Those sections of this Act that amend the Maine Revised Statutes, Title 12, section 6072, subsection 12 and section 6072-A, subsection 20-A relating to the renewal of aquaculture leases and that enact Title 12, section 6072-A, subsection 18-A relating to the renewal of aquaculture leases apply to all renewal applications pending with the Department of Marine Resources on the effective date of this Act and to all renewal applications submitted on or after the effective date of this Act.

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