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An Act To Amend the Laws Regarding Aquaculture Leases

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

Whereas, the aquaculture industry in Maine has been going through a period of consolidation and contraction; and

Whereas, the current fallowing requirements for aquaculture facilities are causing unnecessary financial hardship for the aquaculture industry; and

Whereas, this Act must take effect immediately to provide aquaculture facilities with enough time to respond to the changes in the following laws this year; 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-§2, ¶E, as amended by PL 2003, c. 660, Pt. A, §3, is further amended to read:

E. Except as provided in subsection 13-A, the lease does not result in a person being a tenant of any kind in leases covering an aggregate of more than ~~300~~500 acres; and

Sec. 2. 12 MRSA §6072, sub-§12, ¶D, as amended by PL 2003, c. 660, Pt. A, §8, is further amended to read:

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 ~~300~~500 acres; and

Sec. 3. 12 MRSA §6072, sub-§12-A, ¶B, as amended by PL 2003, c. 660, Pt. A, §9, is further amended to read:

B. The commissioner may grant lease transfers if the commissioner determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7;
- (2) The transfer is not intended to circumvent the intent of subsection 8;
- (3) The transfer is not for speculative purposes; and
- (4) Except as provided in subsection 13-A, the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than ~~300~~500 acres.

Sec. 4. 12 MRSA §6072, sub-§13-A, as enacted by PL 2003, c. 660, Pt. A, §14, is repealed and the following enacted in its place:

13-A. Lease acreage increase; fallowing. The commissioner may require a person to submit an annual fallowing plan and a reassessment schedule for that plan to the commissioner that identifies lease sites that have been actively operated during the lease period and that will be fallowed. The commissioner shall review the plan and reassessment schedule and may approve them, reject them or request changes. Revisions to the plan must be submitted in accordance with the reassessment schedule unless the commissioner authorizes an exception due to extraordinary circumstances.

A. Except as provided in paragraph B, a person may not be a tenant of any kind in leases covering an aggregate of more than 500 acres including fallowed leases at any time.

B. The commissioner may by rule authorize leases in excess of the 500-acre limit if the commissioner determines that the increase is beneficial for the management of aquaculture and is environmentally and economically appropriate. The commissioner may not authorize a person to be a tenant of any kind in leases covering an aggregate of more than 1,500 acres. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

For purposes of this subsection, "fallow" means a lease site without cultured organisms. A lease site fallowed pursuant to an enforcement action may not be considered fallowed for the purpose of this subsection.

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