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Date: (Filing No. H-)

MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1149, L.D. 1722, “An Act to Simplify the Regulation of Aquaculture Leases”

Amend the bill by striking out the title and substituting the following:

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

Amend the bill by inserting after the title and before the enacting clause the following:

'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,'

Amend the bill by striking out all of section 1 and inserting the following:

'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

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1 aquaculture to be conducted during the new lease term. If the renewal application is
2 received after the expiration of a lease but within 30 days of the date of expiration, the
3 application must include a nonrefundable \$500 late fee in order for the application to
4 be accepted. The late fee may be waived by the commissioner if a substantial illness or
5 medical condition prevented the leaseholder from submitting the application prior to
6 the date of expiration. The applicant shall provide the commissioner with
7 documentation from a physician describing the substantial illness or medical condition.
8 The commissioner may not process an application received more than 30 days after the
9 expiration of a lease, and the applicant's lease expires;

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

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

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

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

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

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

29 ~~A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4.~~
30 ~~Public notice must be given to the entities required to receive notice under subsection 6. A~~
31 ~~person may provide to the commissioner comments on the proposed lease renewal by the~~
32 ~~30-day deadline specified in the applicable notice to the entities required to receive notice~~
33 ~~under subsection 6 or within 30 days of publication of the proposed renewal. A hearing~~
34 ~~must be held if it is requested in writing by 10 persons within the 30 days. The~~
35 ~~commissioner may review multiple leases concurrently during the lease renewal process.~~

36 A lease renewal is not an adjudicatory proceeding. Upon determining that the renewal
37 application is complete, the commissioner shall provide notice of the application to owners
38 of riparian land within 1,000 feet of the proposed location of the lease and to the municipal
39 officers of the municipality in which the lease is located. The applicant shall provide the
40 names and addresses of known owners of riparian land within 1,000 feet of the location of
41 the lease. The names and addresses must be taken from the current property tax roster on
42 file at the local municipal office or, for an unorganized territory, with the Department of
43 Administrative and Financial Services, Bureau of Revenue Services. The commissioner
44 shall publish a summary of the application in a newspaper of general circulation in the area

1 of the State in which the lease is located. The commissioner may require the applicant to
2 reimburse the department for costs incurred by the department in providing public notice
3 under this subsection. A person may provide comments to the commissioner on the
4 application by the 30-day deadline specified in the applicable notice to owners of riparian
5 land or municipal officers or within 30 days of publication of the newspaper notice.

6 A lease renewal application must include a nonrefundable application fee of no more than
7 \$1,500, the amount to be set by the commissioner depending on the type of aquaculture
8 permitted by the lease.'

9 Amend the bill by striking out all of section 3 and inserting the following:

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

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

13 18-A. Scientific lease renewal. A limited-purpose lease for scientific research may
14 be renewed. The commissioner shall renew the lease if:

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

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

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

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

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

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

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

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

6 **20-A. Extension for conversion of a commercial lease.** If a person who holds a
7 limited-purpose lease for commercial aquaculture research and development submits an
8 application under section 6072, subsection 12-D for that same lease area and the same
9 operations before the expiration of that limited-purpose lease, or within 30 days of the
10 expiration and accompanied by a nonrefundable late fee of \$500, and if the commissioner
11 does not make a decision under section 6072, subsection 12-D before the expiration of that
12 limited-purpose lease, the limited-purpose lease remains in effect until the commissioner
13 makes a decision under section 6072, subsection 12-D. The late fee may be waived if a
14 substantial illness or a medical condition prevented the leaseholder from submitting the
15 application within 30 days of the date of expiration. The applicant shall provide the
16 commissioner with documentation from a physician describing the substantial illness or
17 medical condition. If the commissioner grants the person a lease under section 6072,
18 subsection 12-D, that person's limited-purpose lease remains in effect until the effective
19 date of the lease issued under section 6072, subsection 12-D. If the commissioner denies
20 that person a lease under section 6072, subsection 12-D, that person's limited-purpose lease
21 remains in effect until ~~30~~ 120 days after the commissioner's decision. The commissioner
22 may not process applications under section 6072, subsection 12-D received more than 30
23 days after the expiration of a lease, and the leaseholder is responsible for removing all gear
24 and products within 120 days.'

25 Amend the bill in section 4 in the 4th line (page 1, line 32 in L.D.) by striking out the
26 following: "section" and inserting the following: 'sections'

27 Amend the bill in section 4 in the 4th line (page 1, line 32 in L.D.) by inserting after
28 the following: "6072" the following: 'and 6072-A'

29 Amend the bill by inserting after section 4 the following:

30 **'Sec. 5. Application.** Those sections of this Act that amend the Maine Revised
31 Statutes, Title 12, section 6072, subsection 12 and section 6072-A, subsection 20-A relating
32 to the renewal of aquaculture leases and that enact Title 12, section 6072-A, subsection 18-
33 A relating to the renewal of aquaculture leases apply to all renewal applications pending
34 with the Department of Marine Resources on the effective date of this Act and to all renewal
35 applications submitted on or after the effective date of this Act.'

36 Amend the bill by adding before the summary the following:

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

39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
40 number to read consecutively.

41 SUMMARY

42 This amendment makes the following changes to the bill.

