

STATE OF MAINE

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

—  
S.P. 734 - L.D. 1864

**An Act to Facilitate the Reconstruction of Storm-damaged Commercial Fisheries Facilities and Infrastructure**

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

**Whereas**, on March 20, 2024, President Joseph R. Biden, Jr. declared that a major disaster existed in the State of Maine and ordered federal assistance to supplement state, tribal and local recovery efforts in the areas affected by the severe storms and flooding that occurred from January 9, 2024 to January 13, 2024, including within the State's coastal municipalities; and

**Whereas**, as a result of the severe storms and flooding, individuals and business owners in the State suffered substantial damage to facilities and infrastructure such as docks, piers, wharves, fish houses and other structures traditionally used in support of commercial fishery operations and other functionally water-dependent uses; and

**Whereas**, under state and certain local laws, to lawfully reconstruct or replace such damaged facilities and infrastructure, a municipal board of appeals must grant a variance from certain local ordinance provisions by finding, among other things, that the land in question cannot yield a reasonable return unless the variance is granted; and

**Whereas**, because Maine courts have repeatedly held that mere access to coastal waters and the recreational benefits afforded by that access provide property owners with a reasonable return on their land, individuals and business owners would be unlikely to demonstrate a lack of a reasonable return on their land and would therefore be unable to benefit from the federal assistance to reconstruct or replace damaged facilities and infrastructure made available by the disaster declaration; and

**Whereas**, absent an extension, the deadline to complete permanent work under the emergency declaration is approaching in September 2025; 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. Variance petition; exemption from reasonable return variance standard.** The Maine Revised Statutes, Title 30-A, section 4353, subsection 4, paragraph A does not apply to a petition for a variance from one or more provisions of a municipal shoreland zoning ordinance or a municipal floodplain management ordinance that is filed with the municipality's board of appeals established pursuant to Title 30-A, section 4353 if:

A. The petitioner demonstrates to the board of appeals that the petitioner suffered substantial damage to a dock, pier or wharf, or a structure placed thereon, as a result of the severe storms or flooding that occurred from January 9, 2024 to January 13, 2024;

B. The damaged dock, pier or wharf, or structure placed thereon, identified pursuant to paragraph A is proposed to be reconstructed or replaced in kind and is a functionally water-dependent structure or has a functionally water-dependent use; and

C. The petition is determined complete for processing by the board of appeals no later than December 31, 2027.

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