

Testimony in Support of LD 1864: An Act to Facilitate the Reconstruction of
Storm-damaged Commercial Fisheries Facilities and Infrastructure

Submitted to the Joint Standing Committee on ~~State and Local Government~~ *Housing and economic development*

Senator Curry Representative Gere and distinguished members of the housing
and economic development committee,

Thank you for the opportunity to testify in support of LD 1864.

This legislation is urgently needed to support the recovery of Maine's coastal
communities—especially Harpswell—in the wake of the devastating storms
and flooding of January 2024. Our working waterfronts are essential to the
economy, culture, and way of life in this region, and this bill recognizes the
unique challenges faced by commercial fishermen as they work to rebuild.

As you know, commercial fishing operations are not like other businesses.
They rely on direct, immediate access to the water, which means their gear,
bait rooms, ice storage, and other essential facilities must be located on
wharves or piers that extend over the water. In many cases, the land
associated with these properties is minimal or non-existent—making
over-water structures not just preferable but essential.

However, FEMA-compliant floodplain ordinances prohibit the construction
of any structure over 200 square feet on a wharf. Unfortunately, virtually
every fishing-related structure on a wharf exceeds that size, simply because
the nature of the work demands it. This means that, without LD 1864, most
fishermen have no legal pathway to rebuild their structures as they existed
before the storm.

Under current Maine law, in order to obtain a variance from local ordinances,
a property owner must prove that their land cannot yield a reasonable return
without the variance. But court decisions have repeatedly held that just
having access to coastal water—regardless of whether it's usable for
commercial purposes—is enough to constitute a “reasonable return.” This

legal standard effectively blocks fishermen from rebuilding, even if their livelihoods are at stake.

LD 1864 provides a narrow and sensible exemption to this rule. It ensures that fishermen and working waterfront property owners in Harpswell can apply for variances without having to meet an impossible standard. The bill is time-limited, tied to specific damage from the January 2024 storms, and strictly applies to structures that are functionally water-dependent.

In short, this bill will allow Maine fishermen to rebuild in a timely manner, and to do so in a way that preserves the working waterfront for future generations.

On behalf of the commercial fishing community, I urge you to support LD 1864.