



MAINE OFFICE OF
**Community
Affairs**

**Testimony of the Maine Office of Community Affairs
MPAP Director Joan Walton
January 22, 2026**

**Before the Joint Standing Committee on Housing and Economic Development
In Support of LD 2143 An Act Facilitating the Reconstruction or Replacement of Storm-
damaged Commercial Fisheries Facilities and Infrastructure (Department Bill)**

Senator Curry, Representative Gere, and members of the Joint Standing Committee on Housing and Economic Development, my name is Joan Walton. I am the director of the Municipal Planning Assistance Program at the Maine Office of Community Affairs. I am speaking in support of LD 2143, *"An Act Facilitating the Reconstruction or Replacement of Storm-damaged Commercial Fisheries Facilities and Infrastructure."*

This bill amends the provisions of law governing a municipal board of appeals' authority to issue variances to local floodplain management ordinances for the purpose of making a substantial improvement to a building seaward of mean high tide. The bill provides that a petitioner seeking a variance does not have to meet the requirement that the land cannot yield a reasonable return unless the variance is granted, as long the structure sustained substantial damage (as defined by the local floodplain management ordinance) and is to be reconstructed for a functionally dependent use (as defined in 44 Code of Federal Regulations, Section 59.1).

LD 2143 modifies a bill passed during the first session of the 132nd Legislature. In the first session, LD 1864 (now P.L. Chapter 286) created a temporary exemption from the "reasonable return" criteria for a variance, allowing owners of certain waterfront infrastructure to rebuild damaged structures with greater flood resilience. The temporary exemption applied only to areas covered by federal disaster declarations and to damage incurred between January 9, 2024, and January 13, 2024, and required that all appeals be completed by a municipal board of appeals no later than December 31, 2027.

LD 2143 removes the federal disaster prerequisite and the temporary status exemption from the "reasonable return" criteria for a variance, specific to Municipal Floodplain Management Ordinances. The bill clarifies the legislative intent to apply the exemption to structures placed *seaward of mean high tide* on top of docks, piers, or wharves, allowing the owner to elevate or otherwise protect the structure from future flood damage if the

structure has suffered substantial damage (as defined by the municipal floodplain management ordinance) and if the repaired or rebuilt structure is permitted for a “functionally dependent use”.

LD 2143 clarifies the definition of “functionally dependent use” to be consistent with the federal definition. The previous bill included shoreland zoning ordinances in the variance standard exemption. This is highly problematic as the Maine Shoreland Zoning Chapter 1000 definition of “functionally water-dependent use” is more permissive than the federal definition for “functionally dependent use”. The federal definition includes only docking facilities for the loading/unloading of cargo, shipbuilding, or vessel repairs, whereas the Shoreland Zoning definition includes additional uses such as fish processing, storage, and marketing facilities, among other uses. FEMA has advised the Maine Floodplain Management Coordinator that failure of municipal floodplain management ordinances to be at least as restrictive as the federal definition may jeopardize any community’s standing in the National Flood Insurance Program and, therefore, threaten the ability of property owners to buy and maintain flood insurance. Furthermore, legislation that is less restrictive than the federal definition may lead to repercussions for the NFIP’s statewide coordination role.

In summary, LD 2143 ensures that state statutes and local floodplain management ordinances remain compliant with federal law, thereby maintaining good standing with the National Flood Insurance Program. LD 2143 additionally expands relief to coastal waterfront property owners who incur damage by making the exemption permanent and removing the federal disaster prerequisite. This positions property owners who meet the criteria to rebuild more expediently and with improved resilience to future flood damage.

Thank you for your time. I would be happy to answer any questions now or at the work session.