

CHAPTER 462

S.P. 338 - L.D. 998

An Act To Authorize Bond Issues for Ratification by the Voters at the November 2005 Election

Sec. B-6. Maine working waterfront protection pilot program.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means the Land for Maine's Future Board.

B. "Commercial fisheries business" means any enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured fish or shellfish. Commercial fisheries businesses include without limitation commercial fishermen, aquaculturists, individuals and businesses providing direct services to commercial fishermen and aquaculturists, fishermen's cooperatives and municipal and private piers and wharves operated to provide waterfront access to commercial fishermen and aquaculturists.

C. "Commissioner" means the Commissioner of Marine Resources.

D. "Department" means the Department of Marine Resources.

E. "Pilot program" means the Maine Working Waterfront Access Pilot Program.

2. Pilot program established; administration.

The Maine Working Waterfront Access Pilot Program is established to provide protection to strategically significant working waterfront properties whose continued availability to commercial fisheries businesses is essential to the long-term future of this economic sector. The department shall

administer the pilot program either directly or by contract with a suitable organization.

3. Review panel. The department shall organize a review panel to advise the commissioner in the operation of the pilot program, including without limitation evaluating and recommending to the department applicants for participation in the pilot program.

4. Selection criteria. The department shall develop selection criteria with which to evaluate applications for investment in protected working waterfront properties. The selection criteria must include, without limitation:

A. The economic significance of the property to the commercial fisheries industry in the immediate vicinity and in the State as a whole;

B. The availability of alternative working waterfront properties in the same vicinity;

C. The degree of community support for the proposed investment;

D. The level of threat of conversion to uses incompatible with commercial fisheries businesses; and

E. The utility of the proposed protected property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure.

5. Interests acquired; permanence. The board may acquire real estate interests in accordance with this section directly from willing property owners and may make acquisition grants to local governments, to organizations qualified to hold conservation easements under the Maine Revised Statutes, Title 33, chapter 7, subchapter 8-A and to organizations determined by the board to be capable of holding other less-than-fee interests that are designed to protect access to working waterfront properties. Grants made pursuant to this section

are for the purpose of acquiring real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements and other permanent interests in land. The board shall include as a condition of any acquisition and grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. As an additional condition, the board must retain a permanent right of first refusal on any property acquired in fee or protected by conservation easement or other less-than-fee interests. Exercise of the right of first refusal must be at a price determined by an independent professional appraiser based on the value of the property to a commercial fisheries business at the time of exercise of the right. The board may assign this right to a commercial fisheries business or to a local government if, in the board's judgment, such an assignment is consistent with the purposes of this section. To the extent permissible by law, if the board determines that the public purposes of a grant made under this section are no longer served, the board in its sole discretion may terminate a grant agreement made under this section conditional on repayment of the original grant amount or an amount equal to that proportion of the then-current value of the protected real estate that represents that the ratio of the original grant amount to the original fee interest value at the time of the grant. Any funds recovered under this subsection may be expended only for the purposes of this section.

6. Matching funds. For each grant made under this section, the board shall require that the grant recipient provide matching funds at least equal to the amount of the grant.

7. Interdepartmental coordination. The commissioner may request technical assistance from the Executive Department, State Planning Office and the Department of Transportation in the development and implementation of the pilot program.

8. Rulemaking. The commissioner may adopt rules necessary for the implementation and administration of the pilot program. Rules adopted under this subsection are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.