

Review of “Accessing the Maine Coast” for State-Specific Legal Information

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Process: To determine how much legal research might be needed to transfer the “Accessing the Maine Coast” website to other states, I proceeded through the site map reviewing each page and its pop-ups. Primarily I was looking at whether the text was transferable and, if not, how much state-specific research would be required.

General Results:

Overall, I believe with minimal state-specific legal research this website can be transferred to any state. A Sea Grant program wishing to adopt this site would need to conduct research on state-specific laws affecting public access to the shore and the private/public boundary (low water vs. high water). The bulk of the work would be focused on revising the “Legal Principles and Statutes” page. The program would also have to compile new case studies and resource lists. Research will be needed primarily to make sure that all options available to the landowners, government, and users are discussed. There may be options in other states that are not available in Maine. I believe all the above could be conducted by a highly motivated law student in 2 – 4 weeks (assuming 20 hours per week) under the supervision of a law professor or a Sea Grant legal program attorney.

Specific Results:

Private Waterfront Landowners

http://www.seagrants.umaine.edu/accesslaw/private_waterfront_landowners/private_landowners.shtml

- The text is largely transferable to any state. The descriptions for invitees, trespassers, liability, takings, and prescriptive easements simply state general legal principles. The descriptions for licensees state a general legal principle, but mention Maine law. Some minor wording changes would be needed there.
- The entries for “mean low tide” and “fishing, fowling, and navigation” would need to be heavily revised. The boundaries in other states are different (it may be mean high tide) and most use the public trust doctrine to establish the scope of public rights. I would suspect that a new entry or page might need to be developed on the public trust doctrine if there has been a lot of litigation in the state.
- In the “Benefits” section, the text on tax treatment is transferable, but the case studies and available programs are state-specific. Some research would be needed to develop new case studies and identify relevant programs.
- Text on easements is transferable.

- The page on “[Contracting for Access](#)” should be transferable, but research would be needed to double-check that the option is actually available in the state. The case studies would also have to be revised.
- The page for “[Acquiring Access](#)” is transferable except for the text on the working waterfront covenant, which may be state-specific, the case studies, and available programs.
- Research would be needed to see if state has a law similar to the [Maine Landowner Liability Law](#).
- [Land Ownership and Trusts](#) – Transferable
- [Options for Transferring Land Ownership Interest](#) – Transferable, but I would recommend research to double-check that all options mentioned are available in the state and to discover others that might be available.

Government or Public Interest Entity

http://www.seagrant.umaine.edu/accesslaw/government_and_public_entities/government_public_entities.shtml

- The “[Planning Processes for Waterfront Access](#)” page is transferable with some wording changes and identification of relevant state agencies and new links. Some research is recommended to identify any other options that might exist in the state. The case studies and state programs would need to be revised.
- The [Right-of-Way Rediscovery Program](#) is state-specific, but I suspect that the legal principles underlying that program are transferable. With minor changes, that text could probably be transferred.
- The “[Zoning](#)” page is transferable with some research. For example, I don’t know if contract zoning is available in all states. State-specific research would also be needed to determine amount of land zoned water-dependent and whether that category even exists.

Waterfront User

http://www.seagrant.umaine.edu/accesslaw/waterfront_users/waterfront_users.shtml

- As mentioned above, the entries for mean low tide and fishing, fowling, and navigation need to be revised.

Legal Principles and Statutes

http://www.seagrant.umaine.edu/accesslaw/common_law_and_statutes/common_law_and_statutes.shtml

- Most of the research will need to be done to update this page. Someone will have to identify the major state laws that affect access. Additional information will be needed on the public trust doctrine and what public rights are included in that (recreation, wildlife).

Resources

http://www.seagrant.umaine.edu/accesslaw/coastal_access_toolkit/resources.shtml

- Some of the Maine resources could be useful in other states, but state-specific resources would need to be compiled and added.
- Working Waterfront Access Pilot Program is state specific.

FAQ

http://www.seagrant.umaine.edu/accesslaw/faqs/FAQs_accessing_the_maine_coast.shtml

- Although the language of the FAQ's is pretty general, not all the options discussed will be available in every state. Once the site is updated for a particular state, I think it will be obvious what needs to be changed on the FAQ page. Obviously, the state agency names and links will need to be changed.

Glossary

http://www.seagrant.umaine.edu/accesslaw/coastal_access_toolkit/glossary_a_h.shtml

- Most entries are transferable. Most are generic definitions that would apply even if the particular item (bonus zoning, for instance) isn't available in the state. However, some definitions will need to be changed, including at a minimum: Fishing, fowling, and navigation; navigable waters; public access; public easement; submerged lands; uniformity clause; and working waterfront.