

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 270 - L.D. 337

An Act To Make Technical Changes to Aquaculture Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §6072, sub-§8, as amended by PL 1997, c. 231, §4, is further amended to read:

8. Preference. ~~Except as provided in subsection 8-A, if~~ If more than one person applies to lease an area, preference must be given as follows:

A. First, to the ~~department~~ person who holds a lease for the area or a portion of the area under section 6072-A and who submitted an application for a lease under this section for the area or a portion of the area before the lease under section 6072-A expired;

B. Second, to the ~~riparian owner of the intertidal zone within the leased area~~ department;

C. Third, to a ~~person who fishes commercially and who has traditionally fished in or near the proposed lease area~~ the riparian owner of the intertidal zone in which the leased area is located; and

D. Fourth, to the ~~riparian owner within 100 feet of leased coastal waters;~~ a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and

E. Fifth, to the riparian owner within 100 feet of leased coastal waters.

Sec. 2. 12 MRSA §6072, sub-§8-A, as enacted by PL 1997, c. 231, §5, is repealed.

Sec. 3. 12 MRSA §6072, sub-§12, as amended by PL 2005, c. 535, §2, is further amended to read:

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, at least 90 days prior to the ~~termination~~ expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term;

- B. The lessee has complied with the lease agreement during the term of the lease;
- C. The commissioner determines that renewal of the lease is in the best interest of the State;
- D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and
- E. The lease is not being held for speculative purposes.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 days after the date of the commissioner's decision.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given as required under subsection 6 and a hearing must be held if it is requested in writing by 5 persons. The commissioner may review multiple leases concurrently during the lease renewal process.

A lease renewal application must include a nonrefundable application fee of no more than \$1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

Sec. 4. 12 MRSA §6072, sub-§12-B, as enacted by PL 2005, c. 92, §2, is repealed.

Sec. 5. 12 MRSA §6072-A, sub-§18, as enacted by PL 1997, c. 231, §6, is amended to read:

18. Scientific lease renewal. A limited-purpose lease for scientific research may be renewed. ~~The commissioner must hold a public hearing before deciding upon the request for renewal.~~ A scientific research lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a public hearing is not mandatory unless it is requested in writing by 25 or more persons. The commissioner may review multiple leases concurrently during the lease renewal process. The commissioner shall renew a limited-purpose lease for scientific research unless the commissioner finds that:

- A. The lease holder has not complied with the terms of the limited-purpose lease;
- B. Research has not been conducted during the term of the lease; or
- C. It is not in the best interest of the State to renew the limited-purpose lease.

Sec. 6. 12 MRSA §6072-A, sub-§20, as enacted by PL 1997, c. 231, §6, is amended to read:

20. Extension of commercial lease. If a person who holds a limited-purpose lease for commercial aquaculture research and development submits ~~a completed an~~

application under section 6072 for that lease area or a portion of that area before the expiration of that limited-purpose lease, and if the commissioner's decision under section 6072 occurs after the expiration of that limited-purpose lease, the lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072, that person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072. If the commissioner denies that person a lease under section 6072, that person's limited-purpose lease remains in effect until 30 days after the commissioner's decision.

Sec. 7. 12 MRSA §6072-B, sub-§7, as enacted by PL 1997, c. 231, §6, is amended to read:

7. Extension of emergency aquaculture lease. If a person who holds an emergency aquaculture lease submits an application under section 6072 or 6072-A for all or a portion of that lease area ~~within 60 days of being granted before~~ the emergency aquaculture lease expires, and if the commissioner's decision under section 6072 or 6072-A occurs after the expiration of that emergency aquaculture lease, the emergency aquaculture lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until the effective date of the lease issued under section 6072 or 6072-A. If the commissioner denies that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until 30 days after the commissioner's decision.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor