

## Appendix H

## Title 5, Chapter 353 (as amended)

STATE OF MAINE  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE  
H.P. 156 - L.D. 221

**An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**PART FFFF**

**Sec. FFFF-1. 5 MRSA §6201, sub-§1-B** is enacted to read:

**1-B. Community conservation project.** "Community conservation project" means a conservation project of local or regional significance that promotes one or more of the following: public outdoor recreational access to land and waters, including for underserved populations; public health; connection between conserved lands and population centers; local or regional agriculture; conservation of cultural and historical resources on undeveloped lands; protection of lakes, rivers or streams; conservation of fish or wildlife habitat; protection of public drinking water supplies; conservation of community forests; local economic development; opportunities for environmental learning; nonmotorized transportation options; or other priorities as determined by the board.

**Sec. FFFF-2. 5 MRSA §6201, sub-§2,** as enacted by PL 1987, c. 506, §§1 and 4, is amended to read:

**2. Cooperating entities.** "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board pursuant to section 6203, as able to assist the State in the acquisition or management of conservation lands of statewide significance or for community conservation projects.

**Sec. FFFF-3. 5 MRSA §6203, sub-§3, ¶A,** as amended by PL 1999, c. 769, §1, is further amended to read:

A. Acquire property or an interest in property that is determined by the board to be of ~~state~~ statewide significance under the guidelines of this chapter or for a community conservation project;

**Sec. FFFF-4. 5 MRSA §6207, sub-§2**, as amended by PL 2007, c. 64, §1 and c. 353, §§1 to 3, is further amended to read:

**2. Determination of ~~state~~ statewide significance.** In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of ~~state~~ statewide significance and:

1. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;
2. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State;
3. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section; or
4. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter.

**Sec. FFFF-5. 5 MRSA §6207, sub-§3**, as amended by PL 2011, c. 381, §1, is further amended to read:

**3. Priorities.** Whenever possible, the Land for Maine's Future Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, as long as the proposed acquisition meets all other criteria set forth in this chapter. For acquisitions funded by the Land for Maine's Future Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, that help the State's natural ecosystems, wildlife and natural resource-based economies adapt to a changing climate, that conserve and protect deer wintering areas, that provide geographic representation and that build upon or connect existing holdings.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

**Sec. FFFF-6. 5 MRSA §6207, sub-§6** is enacted to read:

**6. Public uses.** Hunting, fishing, trapping and public access may not be prohibited on land acquired with proceeds from the Land for Maine's Future Fund, except to the extent prohibited by applicable state, local or federal laws, rules and regulations and except for working waterfront projects and working farmland preservation projects.

**Sec. FFFF-7. Transfers to the Department of Agriculture, Conservation and Forestry, Land for Maine's Future Fund.** Notwithstanding any provision of law to the contrary, on or before June 30, 2021, the State Controller shall transfer

\$20,000,000 from the unappropriated surplus of the General Fund to the Department of Agriculture, Conservation and Forestry, Land for Maine's Future – Community Conservation Projects Other Special Revenue Funds account for the purpose of acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife and fish habitat and working farmland preservation in accordance with the Maine Revised Statutes, Title 5, chapter 353 and Title 12, section 6042, including all costs associated with such acquisitions.

The State Controller, at the close of the fiscal year ending June 30, 2021, as the next priority after the transfers authorized pursuant to Title 5, sections 1507 and 1511, the transfer of \$2,500,000 for the Reserve

for General Fund Operating Capital and the transfer to the Retiree Health Insurance Internal Service Fund pursuant to section 1519 and after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and any transfers to the Highway and Budget Reserve Other Special Revenue account authorized by Part ZZZ, shall transfer up to \$20,000,000 from the available balance of the unappropriated surplus of the General Fund to the Department of Agriculture, Conservation and Forestry, Land for Maine's Future – Community Conservation Projects Other Special Revenue Funds account for the purpose of acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife and fish habitat and working farmland preservation in accordance with Title 5, chapter 353 and Title 12, section 6042, including all costs associated with such acquisitions.

**Sec. FFFF-8. Disbursement of funds.** The funds transferred to the Department of Agriculture, Conservation and Forestry, Land for Maine's Future – Community Conservation Projects Other Special Revenue Funds account under this Part must be expended under the direction and supervision of the Department of Agriculture, Conservation and Forestry for the acquisition of land or interest in land, including all costs associated with such acquisitions, in accordance with the Maine Revised Statutes, Title 5, chapter 353 and Title 12, section 6042. The expenditure of funds transferred under this Part is subject to the following conditions and requirements.

1. Funds for the acquisition of land or interest in land for community conservation projects, as defined in Title 5, section 6201, subsection 1-B, may be distributed directly to cooperating entities, as defined in Title 5, section 6201, subsection 2, subject to terms and conditions enforceable by the State to ensure use of those funds for the purposes of this section. In addition to the considerations required under Title 5, chapter 353, the department shall give a preference to community conservation projects that benefit multiple municipalities and address regional conservation needs, including public access to recreation, wildlife and habitat conservation and open space and farmland.

2. At least 5% of the funds must be made available for the acquisition of land or an interest in land to provide or improve public access to water in accordance with Title 5, section 6203-A, subsection 3.

3. At least 10% of the funds must be made available for the acquisition of land or an interest in land to protect farmland in accordance with Title 5, section 6207.

4. At least 10% of the funds must be made available for the acquisition of land or an interest in land to preserve and access working waterfront properties in accordance with Title 12, section 6042.

5. No more than \$10,000,000 of the funds may be spent in the first year by the department and no more than \$10,000,000 plus any unused balance from prior years may be spent by the department in each of the 3 subsequent years.

6. Each expenditure of funds under this Part must be matched with matching funds, as defined by Title 5, section 6201, subsection 3, at least equal to the amount of the expenditure. At least 70% of the matching funds provided for expenditures made in accordance with this Part must be in the form of cash or other tangible assets, including the value of land and real property interest that is acquired by or contributed to cooperating entities and that the department determines have a direct relationship to the property proposed for protection. The remaining 30% of the matching funds provided may be in the form of contributions, including the value of project-related in-kind contributions of goods and services made to and by cooperating entities.

7. To the extent the purposes are consistent with the disbursement provisions in this Part, 100% of the funds may be considered as state match for any federal funding to be made available to the State.

8. The Department of Inland Fisheries and Wildlife shall proactively pursue the use of funds under this Part for land acquisition projects that conserve deer wintering areas.