An Act To Amend the Definition of "Penobscot Indian Reservation"

(GOVERNOR'S BILL)

PRESENTED BY: ____________________________
(Representative LORING)
TOWN: Penobscot Nation

PROPOSED SHORT TITLE:
AMEND THE DEFINITION OF
"PENOBSCOT INDIAN RESERVATION"
(Subject to change)
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30 MRSA §6203, sub-§8, as amended by PL 1987, c. 712, §§1 and 2, is further amended to read:

8. Penobscot Indian Reservation. “Penobscot Indian Reservation” means the islands in the Penobscot River reserved to the Penobscot Nation by agreement with the States of Massachusetts and Maine consisting solely of Indian Island, also known as Old Town Island, and all islands in that river northward thereof that existed on June 29, 1818, excepting any island transferred to a person or entity other than a member of the Penobscot Nation subsequent to June 29, 1818, and prior to the effective date of this Act. If any land within Nicatow Island is hereafter acquired by the Penobscot Nation, or the secretary on its behalf, that land shall must be included within the Penobscot Indian Reservation.

The “Penobscot Indian Reservation” includes the following parcels of land which have been or may be acquired by the Penobscot Nation from Bangor Pacific Hydro Associates as compensation for flowage of reservation lands by the West Enfield dam: A parcel located on the Mattagamon Gate Road and on the East Branch of the Penobscot River in T.6 R.8 WELS, which is a portion of the "Mattagamon Lake Dam Lot" and has an area of approximately 24.3 acres, and Smith Island in the Penobscot River, which has an area of approximately one acre.

Notwithstanding section 6205, subsection 5 and section 6209-B, subsection 5, the "Penobscot Indian Reservation" also includes a certain parcel of land located in Argyle, Penobscot County consisting of approximately 714 acres known as the Argyle East Parcel and more particularly described as Parcel One in a deed from the Penobscot Indian Nation to the United States of America dated November 22, 2005 and recorded at the Penobscot County Registry of Deeds in Book 10267, Page 265.

Sec. 2. Effective date. This Act does not take effect unless, within 60 days of the adjournment of the First Special Session of the 123rd Legislature, the Secretary of State receives written certification by the Tribal Chief and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Act, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may this Act become effective until 90 days after the adjournment of the First Special Session of the 123rd Legislature.

SUMMARY

This bill adds a 714-acre parcel of land located in a portion of the Unorganized Territory known as Argyle in Penobscot County to the definition of the "Penobscot Indian Reservation."
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Fiscal Note for Original Bill
Sponsor: Rep. Loring of Penobscot Nation
Committee: Judiciary
Fiscal Note Required: Yes

Fiscal Note

No net state fiscal impact

Fiscal Detail and Notes
This bill adds a 714-acre parcel of land to the Penobscot Indian Reservation state valuation. Since the Penobscot Indian Nation territory is treated as if they were a municipality of the state for municipal revenue sharing purposes, this increase in valuation will increase revenue sharing received by the Penobscot Indian Reservation. This increase will represent a redistribution of revenue sharing amounts from other municipalities and the unorganized territories.
The Joint Standing Committee on Judiciary had before it LD 2306, An Act 'To Amend the Definition of “Penobscot Indian Reservation” during the waning days of the First Special Session of the 123rd Legislature. The members of the Committee were impressed by the housing needs on Indian Island as well as the housing program that is attempting to meet the myriad of housing needs of the Penobscot Nation.

One of the reasons that LD 2306 was proposed was to compress the time necessary to provide housing on the Argyle Trust Lands. By adding the parcel to the Penobscot Indian Reservation, the design and construction approval process would be limited to those procedures required by the Penobscot Nation and the process required by the federal government for use of the federal resources available to the Penobscot Nation. In fact, the Penobscot Nation is currently in receipt of a federal grant that must be used within the next several months to provide housing resources for the members of the Penobscot Nation.

Title 12, section 682 provides that the Land Use Regulation Commission does not have jurisdiction over Indian reservations, although the State asserts LURC jurisdiction over Trust Lands. The Judiciary Committee preferred to avoid potential jurisdictional concerns that LD 2306 raised and chose instead to support a collaborative approach.
between the Penobscot Nation and LURC. We believe that LURC and the Penobscot Nation can work together to move the housing project along quickly but without loss of the planning and protection that are the purposes of the land use regulation process.

The Judiciary Committee therefore strongly urges the Land Use Regulation Commission to enter into a memorandum of understanding with the Penobscot Nation within the next 30 days to detail the planning and approval process to be applied to the housing project on the Argyle Trust Lands. The full protection of the Penobscot Nation and LURC requirements must apply, but we know there is a need to establish the parameters of the collaborative process without delay. The housing needs of the Penobscot Nation are substantial. The federal grant cycle is such that the housing program must promptly move forward with the grants received in order to qualify for the additional resources needed.

We believe this collaborative process is superior to any course that may result in jurisdictional disputes and delay. We have every confidence that LURC and the Penobscot Nation can reach agreement on the process and work together to ensure compliance with all applicable requirements, ensuring that the Argyle residential development is well-planned and a well-managed use of land. We chose not enact a law to direct LURC to enter into the memorandum of understanding with the Penobscot Nation, preferring to encourage rather than to demand that the collaborative process take place, believing such encouragement to be more in keeping with the overall cooperative atmosphere we think can and will exist.

We strongly support the resolution of the Penobscot Nation housing shortage, and without delay, to take advantage of grants and to get the project off the ground as soon as practically possible.

Please contact us if you have any questions. Thank you.

Sincerely

Sen. Barry J. Hobbins
Senate Chair

Rep. Deborah L. Simpson
House Chair

Cc: Chief Kirk Francis, Penobscot Indian Nation
Craig Sanborn, Director of Housing, Penobscot Indian Nation
Catherine M. Carroll, Director, LURC