

COPY

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

(GOVERNOR'S BILL)

PRESENTED BY: _____

(Representative LORING)
TOWN: Penobscot Nation

123LR3632(01)-1

PROPOSED SHORT TITLE:
AMEND THE DEFINITION OF
"PENOBSCOT INDIAN RESERVATION"
(Subject to change)

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

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

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

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

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

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

34

SUMMARY

35 This bill adds a 714-acre parcel of land located in a portion of the Unorganized
36 Territory known as Argyle in Penobscot County to the definition of the "Penobscot Indian
37 Reservation."



123rd MAINE LEGISLATURE

LD 2306

LR 3632(01)

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

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.

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JOHN M. NUTTING, DISTRICT 17
DAVID R. HASTINGS III, DISTRICT 13

MARGARET J. REINSCH, LEGISLATIVE ANALYST
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STATE OF MAINE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

COMMITTEE ON JUDICIARY

April 24, 2008

E. Bart Harvey III, Chair
Stephen W. Wight, Co-Chair
Maine Land Use Regulation Commission
22 State House Station
Augusta, Maine 04333-0022

Re: Penobscot Nation Trust Lands in Argyle

Dear Chair Harvey and Co-Chair Wight:

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.

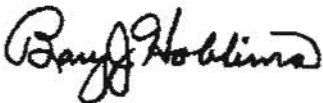
The Judiciary Committee therefore strongly urges the Land Use Regulation Commission to enter into a memorandum of understanding with the Penobscot Nation within the next 30 days to detail the planning and approval process to be applied to the housing project on the Argyle Trust Lands. The full protection 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.

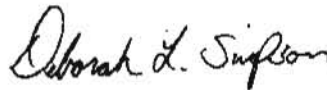
We strongly support the resolution of the Penobscot Nation housing shortage, and without delay, to take advantage of grants and to get the project off the ground as soon as practically possible.

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