

# STATE OF NEW YORK

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4817

2023-2024 Regular Sessions

## IN ASSEMBLY

February 23, 2023

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Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to permitting the leasing of state-owned underwater lands for seaweed cultivation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 13-0301 of the environmental conservation law, as  
2 added by chapter 317 of the laws of 1996, is amended to read as follows:  
3 § 13-0301. Lease of state-owned underwater lands for shellfish or seaweed  
4 eed cultivation.

5 1. Leases. a. Except as provided in paragraph b of this subdivision,  
6 the department may lease state-owned underwater lands within the marine  
7 and coastal district for the cultivation of shellfish or seaweed. The  
8 written approval of the office of general services shall be obtained for  
9 the lease of land within five hundred feet of the high water mark.

10 b. The following lands underwater shall not be leased: (i) lands where  
11 there is an indicated presence of shellfish in sufficient quantity and  
12 quality and so located as to support significant hand raking or tonging  
13 harvesting; (ii) lands where the leasing will result in a significant  
14 reduction to established commercial finfish or crustacean fisheries;  
15 (iii) lands where bay scallops are produced regularly on a commercial  
16 basis; and (iv) lands underwater of Gardiner's and Peconic bays and the  
17 tributaries thereof between the westerly shore of Great Peconic bay and  
18 an easterly line running from the most easterly point of Plum Island to  
19 Goff point at the entrance of Napeague harbor.

20 2. Regulations. a. Regulations adopted by the department for the  
21 implementation and administration of this section shall include regu-  
22 lations with respect to leasing forms and procedures; public notice of  
23 leasing; execution of leases; minimum rental fees; bidding procedures;  
24 posting and forfeiture of financial security, renewals, termination and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 assignment of leases; marking and testing of grounds; maintenance of  
2 boundary markers; collection of rental and recording fees; submission  
3 and approval of cultivation plans; harvesting gear; acreage of lands to  
4 be let and term of leases and other matters pertinent to underwater land  
5 use and shellfish or seaweed cultivation.

6 b. Regulations adopted by the department for the implementation and  
7 administration of this section shall include the following requirements:

8 (i) leases shall be awarded after public auction following due notice;

9 (ii) leases shall be awarded to the highest responsible bidder; (iii)

10 bidders shall provide a detailed cultivation plan; and (iv) cultivation

11 of shellfish or seaweed shall commence within one year of the award of  
12 the lease.

13 3. Summary proceedings. Upon failure to pay the rental on any date due  
14 under the terms of the lease or upon revocation, the department may,  
15 after written notice to the lessee, declare the lease cancelled as of  
16 the date set forth in such notice, and may immediately thereafter evict  
17 the lessee from such lands. The provisions of article seven of the real  
18 property actions and proceedings law shall apply and govern the proce-  
19 dure in such cases.

20 4. Limitations. The commissioner of general services shall not grant  
21 or lease lands for shellfish or seaweed cultivation. The public shall  
22 not be excluded from the taking of shellfish or seaweed from underwater  
23 lands granted or leased by such commissioner for other purposes;  
24 provided, however, that should any grant or lease made by such commis-  
25 sioner for such other purposes include lands leased by the department  
26 for shellfish or seaweed cultivation the lessee for shellfish or seaweed  
27 cultivation shall have the exclusive right to use and take shellfish or  
28 seaweed from such leased lands for a period of two years from the date  
29 of the grant or lease by such commissioner or until the expiration of  
30 the shellfish or seaweed cultivation lease, whichever is the earliest,  
31 and may prior to the expiration of such period, remove and transplant  
32 the shellfish or seaweed from such lands to other lands leased, owned or  
33 controlled by such lessee.

34 § 2. Severability. The provisions of this act shall be severable and  
35 if any portion thereof or the applicability thereof to any person or  
36 circumstances shall be held invalid, the remainder of this act and the  
37 application thereof shall not be affected thereby.

38 § 3. This act shall take effect immediately.