

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1396

H.P. 918

House of Representatives, April 1, 2025

**An Act to Amend Maine's Municipal Subdivision Standards to
Increase the Number of Dwelling Units on or Divisions of a Tract of
Land Before the Tract is Considered a Subdivision**

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ROBERTS of South Berwick.
Cosponsored by Representatives: DUCHARME of Madison, HASENFUS of Readfield,
JULIA of Waterville, MALON of Biddeford, MORRIS of Turner, SACHS of Freeport.

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

2 **Sec. 1. 30-A MRSA §4401, sub-§4**, as amended by PL 2023, c. 79, §1, is further
3 amended to read:

4 **4. Subdivision.** "Subdivision" means the division of a tract or parcel of land into 3 5
5 or more lots within any 5-year period ~~that begins on or after September 23, 1971.~~ This
6 definition applies whether the division is accomplished by sale, lease, development,
7 buildings or otherwise. The term "subdivision" also includes the division of a new structure
8 or structures on a tract or parcel of land into 3 5 or more dwelling units within a 5-year
9 period, the construction or placement of 3 5 or more dwelling units on a single tract or
10 parcel of land and the division of an existing structure or structures previously used for
11 commercial or industrial use into 3 5 or more dwelling units within a 5-year period.

12 A. In determining whether a tract or parcel of land is divided into 3 5 or more lots, the
13 first ~~dividing 3~~ dividings of the tract or parcel is ~~are~~ considered to create the first 2 4
14 lots and the next dividing of ~~either~~ any of these first 2 4 lots, by whomever
15 accomplished, is considered to create a ~~3rd~~ 5th lot, unless:

16 (1) ~~Both dividings are accomplished by a subdivider who has retained one of the~~
17 ~~lots for the subdivider's own use as a single family residence that has been the~~
18 ~~subdivider's principal residence for a period of at least 5 years immediately~~
19 ~~preceding the 2nd division; or~~

20 (2) The division of the tract or parcel is otherwise exempt under this subchapter,
21 including a division of land or creation of a unit or lot that does not meet the
22 definition of "subdivision" in this subsection.

23 B. The dividing of a tract or parcel of land and the lot or lots so made, ~~which if the~~
24 dividing or lots when made are not subject to this subchapter, do not become subject
25 to this subchapter by the subsequent dividing of that tract or parcel of land or any
26 portion of that tract or parcel. The municipal reviewing authority shall consider the
27 existence of the previously created lot or lots in reviewing a proposed subdivision
28 created by a subsequent dividing.

29 C. A lot of 40 or more acres must be counted as a lot, except:

30 (2) When a municipality has, by ordinance, or the municipal reviewing authority
31 has, by regulation, elected not to count lots of 40 or more acres as lots for the
32 purposes of this subchapter when the parcel of land being divided is located
33 entirely outside any shoreland area as defined in Title 38, section 435 or a
34 municipality's shoreland zoning ordinance.

35 D-1. A division accomplished by devise does not create a lot or lots for the purposes
36 of this definition, unless the intent of the transferor is to avoid the objectives of this
37 subchapter or other applicable municipal requirements including road or safety
38 standards.

39 D-2. A division accomplished by condemnation does not create a lot or lots for the
40 purposes of this definition, unless the intent of the transferor is to avoid the objectives
41 of this subchapter.

1 D-3. A division accomplished by order of court does not create a lot or lots for the
2 purposes of this definition, unless the intent of the transferor is to avoid the objectives
3 of this subchapter.

4 D-4. A division accomplished by gift to a person related to the donor of an interest in
5 property held by the donor for a continuous period of 5 years prior to the division by
6 gift does not create a lot or lots for the purposes of this definition, unless the intent of
7 the transferor is to avoid the objectives of this subchapter. If the real estate exempt
8 under this paragraph is transferred within 5 years to another person not related to the
9 donor of the exempt real estate as provided in this paragraph, then the previously
10 exempt division creates a lot or lots for the purposes of this subsection. "Person related
11 to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild
12 related by blood, marriage or adoption. A gift under this paragraph ~~can not~~ cannot be
13 given for consideration that is more than 1/2 the assessed value of the real estate.

14 D-5. A division accomplished by a gift to a municipality if that municipality accepts
15 the gift does not create a lot or lots for the purposes of this definition, unless the intent
16 of the transferor is to avoid the objectives of this subchapter.

17 D-6. A division accomplished by the transfer of any interest in land to the owners of
18 land abutting that land by deeds in the form of a boundary adjustment agreement or
19 reciprocal deeds between the abutting land owners does not create a lot or lots for the
20 purposes of this definition, unless the intent of the transferor is to avoid the objectives
21 of this subchapter. ~~If the real estate exempt under this paragraph is transferred within~~
22 ~~5 years to another person without all of the merged land, then the previously exempt~~
23 ~~division creates a lot or lots for the purposes of this subsection.~~

24 D-7. A division accomplished by the creation of an accessory dwelling unit, whether
25 attached or detached from an existing dwelling unit, does not create a lot for the
26 purposes of this definition.

27 E. The division of a tract or parcel of land into ~~3~~ 5 or more lots and upon each of which
28 lots permanent dwelling structures legally existed before September 23, 1971 is not a
29 subdivision.

30 F. ~~In determining the number of dwelling units in a structure, the provisions of this~~
31 ~~subsection regarding the determination of the number of lots apply, including~~
32 ~~exemptions from the definition of a subdivision of land.~~

33 H-2. This subchapter may not be construed to prevent a municipality from enacting an
34 ordinance under its home rule authority that otherwise regulates land use activities if
35 the ordinance does not conflict with this section or prevent the creation of a housing
36 unit by defining the unit as a lot for purposes of review by a local legislative body,
37 except in the limited manner prescribed in this subchapter.

38 A municipality may not enact an ordinance that expands the definition of "subdivision"
39 except as provided in this subchapter. A municipality that has a definition of
40 "subdivision" that conflicts with the requirements of this subsection at the time this
41 paragraph takes effect shall comply with this subsection no later than January 1, 2021
42 2026. Such a municipality must file its conflicting definition at the county registry of
43 deeds by June 30, 2020 for the definition to remain valid for the grace period ending
44 January 1, 2021. A filing required under this paragraph must be collected and indexed

1 in a separate book in the registry of deeds for the county in which the municipality is
2 located.

3 I. The grant of a bona fide security interest in an entire lot that has been exempted from
4 the definition of subdivision under paragraphs D-1 to ~~D-6~~ D-7, or subsequent transfer
5 of that entire lot by the original holder of the security interest or that person's successor
6 in interest, does not create a lot for the purposes of this definition, unless the intent of
7 the transferor is to avoid the objectives of this subchapter. A mortgage, pledge or other
8 instrument of hypothecation against a dwelling unit or a portion of real property within
9 a parcel that is otherwise defined by this section as a lot is not a lot for purposes of this
10 section. For purposes of this paragraph, "hypothecation" means a pledge of collateral
11 by a debtor to secure a debt or a loan.

12 J. Unless the intent of a transferor is to avoid the objectives of this subchapter, the
13 division of a tract or parcel of land accomplished by the transfer of any interest in the
14 land to a holder does not create a lot or lots for purposes of this definition if:

15 (1) The transferred interest, as expressed by conservation easement, binding
16 agreement, declaration of trust or otherwise, is to be permanently held for one or
17 more of the following conservation purposes:

18 (a) Retaining or protecting the natural, scenic or open space values of the land;

19 (b) Ensuring the availability of the land for agricultural, forest, recreational or
20 open space use;

21 (c) Protecting natural resources; or

22 (d) Maintaining or enhancing air quality or water quality; and

23 (2) The transferred interest is not subsequently further divided or transferred
24 except to another holder.

25 As used in this paragraph, "holder" has the same meaning as in Title 33, section 476,
26 subsection 2.

27 K. The creation of a dwelling unit or division of land that does not meet the definition
28 of "subdivision" in this section may not be construed as intent to avoid the objectives
29 of this chapter if the dwelling unit or division of land otherwise complies with state and
30 local land use and zoning laws and ordinances as determined by an appropriate officer
31 of the municipality or unorganized territory in which the dwelling unit or division of
32 land is located.

33 **Sec. 2. 30-A MRSA §4402, sub-§6**, as amended by PL 2019, c. 174, §2, is further
34 amended to read:

35 **6. Division of new or existing structures.** Beginning July 1, 2018, a division of a
36 new or existing structure into 3 or more dwelling units whether the division is accomplished
37 by sale, lease, development or otherwise in a municipality where the project is subject to
38 municipal site plan review. Beginning January 1, 2026, this subchapter does not apply to
39 the creation of any number of dwelling units within an existing structure, whether by
40 creating a condominium or through the redevelopment of the interior of the structure or by
41 any other means, if the project is subject to municipal site plan review and approval.

1 A. For the purposes of this subsection, "municipal site plan review" means review
2 under a municipal ordinance that sets forth a process for determining whether a
3 development meets certain specified criteria, which must include criteria regarding
4 stormwater management, sewage disposal, water supply and vehicular access and
5 which may include criteria regarding other environmental effects, layout, scale,
6 appearance and safety.

7 B. The municipal reviewing authority in each municipality shall determine whether a
8 municipal site plan review ordinance adopted by the municipality meets the
9 requirements of paragraph A.

10 SUMMARY

11 This bill amends the definition of "subdivision" within the land use planning laws
12 governing subdivisions to exclude from the definition the creation of up to 4 lots or
13 dwelling units on a parcel of land. The bill provides that the addition or creation of an
14 attached or unattached accessory dwelling unit does not constitute a lot. The bill also
15 amends the exception to the subdivision law for a division of a new or existing structure
16 into 3 or more dwelling units by allowing the creation of any number of dwelling units,
17 whether by creation of a condominium or through redevelopment of the interior of the
18 structure.