

# MAINE STATE LEGISLATURE

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# **Corrected Addendum to the Maine's Subdivision Law and Home Rule**

A Report as Required by PL 2001, c. 359  
February 6, 2002

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## **Additional Findings**

Upon further consideration and discussions, the SPO has made the additional finding.

1. Local subdivision regulation that is more inclusive than the state minimum definition, but done in the absence of a zoning ordinance that creates growth and rural areas consistent with a comprehensive plan that is consistent with state law has the strong potential to be exclusionary. The state mandate to regulate subdivisions statewide should not become a tool with the opportunity to exclude affordable housing or affordable land for housing.

## **Modifications to Recommendations**

Based on the additional finding above, SPO proposes the following modifications to its recommendations and the accompanying statutory language. The items below are numbered as they were numbered in the Executive Summary of the original report and the changes are italicized.

2. Municipalities with a comprehensive plan that is consistent with state law, *and a zoning ordinance that they certify is consistent with their comprehensive plan*, should be allowed to create a local definition of a subdivision for their designated rural areas, as locally defined, that allows the review of more divisions than required by the statutory definition in their rural areas. The minimum state definition should apply in locally designated growth areas, since those are the areas with capacity for growth and are where the municipality has said it wants to direct growth. In municipalities without consistent comprehensive plans, the state definition would apply uniformly.
4. Local changes to the definition of a subdivision should be recorded at the Registry of Deeds for the county in which the municipality exists. A map clearly showing the parcels affected by the local definition should also be recorded at the Registry of Deeds. *A certification that the local zoning ordinance is consistent with the local comprehensive plan should be recorded, as well.* Without these recordings, the local definition should be deemed invalid.
5. *Municipalities that currently have definitions that do not meet the requirements of this proposal should have three years to modify their definitions or their other documents to justify their differing definition. In order to maintain the validity of their differing definition during the three year grace period, they should be required to record their definition.*

## **Modifications to Statutory Language**

As above, modified or new language is italicized.

The following language is proposed to accomplish the recommendations above.

Sec. 1 The language of Title 30-A M.R.S.A. §4401(4)(H) is hereby repealed.

Sec. 2 Title 30-A M.R.S.A. §4401(4)(H) shall read:

H. This subsection, defining a subdivision, shall contain the following limits on home rule authority:

1. This definition shall be a minimum definition for all municipalities. Municipalities shall not use their home rule authority to make this definition less inclusive, thereby reviewing fewer divisions than required under the minimum statutory definition.
2. Municipalities that have a local comprehensive plan that is consistent with Title 30-A, Chapter 187, Subchapter II, and a zoning ordinance that is consistent with their comprehensive plan, may modify the definition of a subdivision to make it more inclusive, thereby reviewing more divisions than required under the minimum statutory definition. However:
  - a. such modifications shall only apply to the geographic areas of the municipality designated as rural area in accordance with Title 30-A, Chapter 187, Subchapter II, §4326(2)(A); and
  - b. the geographic boundary of the rural area shall be clearly mapped on a plan that shows parcel boundaries within the municipality; and
  - c. in the case where a parcel is split by the geographic boundary of a rural area, the more inclusive local definition of a subdivision shall apply; and
  - d. the municipality shall record the more inclusive local definition and the parcel map clearly indicating the affected parcels at the Registry of Deeds for the county in which the municipality is located. The more inclusive local definition shall not be valid until the date it and the parcel map are recorded at the county Registry of Deeds. Any amendment to the more inclusive local definition shall be enforceable only upon the recording of the amendment at the county Registry of Deeds.
  - e. the municipality shall certify in writing that their zoning ordinance is consistent with their comprehensive plan, and this certification shall be recorded at the county Registry of Deeds.

3. Municipalities that have a definition of a subdivision that conflicts with the requirements of this subsection at the time this subsection become effective shall come into compliance with this subsection no later than January 1, 2006. These municipalities must record their current definition at the county Registry of Deeds by June 30, 2003, in order for the definition to remain valid for the grace period ending January 1, 2006.

Sec. 3 A new Title 30-A M.R.S.A. §4408 is created and shall read:

Note on Recorded of Plans or Plats. All approved subdivision plats or plans shall have a note on the plat or plan that indicates the definition of a subdivision in effect in the municipality at the time of the subdivision. The note shall either be the full language of the local definition, a reference to the statutory definition if that is the locally used definition, or a reference to the Book and Page number of the locally adopted definition as recorded at the Registry of Deeds. In no case shall referencing the definition be allowed, except where the definition is the statutory definition or where the local definition is recorded at the Registry of Deeds.