

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND FIFTH LEGISLATURE

---

---

Legislative Document

No. 710

H. P. 537

House of Representatives, February 9, 1971

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Curran of Bangor.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

---

AN ACT to Revise the Site Location of Development Law.

---

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

Sec. 1. R. S., T. 38, § 482, sub-§§ 2 and 4, repealed and replaced. Subsections 2 and 4 of section 482 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, are repealed and the following enacted in place thereof:

2. Development which may substantially affect environment. "Development which may substantially affect environment," hereinafter in this Article called "development," means any state, municipal, quasi-municipal, educational, commercial or industrial development, including subdivisions, which development requires a license from the commission, or which occupies a land area in excess of 10 acres, or which contemplates drilling for or excavating natural resources, on land or under the sea, excluding borrow pits for sand, fill or gravel, owned by the State Highway Commission and pits of less than 2 acres, or which occupies a structure or structures in excess of a ground area or a floor space of 60,000 square feet.

4. Person. "Person" means any person, firm, association, partnership, corporation, municipal or other local governmental entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.

Sec. 2. R. S., T. 38, § 482, sub-§ 5, additional. Section 482 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is amended by adding a new subsection 5 to read as follows:

5. Subdivision. A "subdivision" is a division of an existing parcel of land into 3 or more parcels within any 5-year period, whether this division

is accomplished by platting the land or by a sale of the land by metes and bounds or by leasing the land.

Sec. 3. R. S., T. 38, § 483, repealed and replaced. Section 483 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 483. Notification required

Any person intending to construct or operate a development which may substantially affect the environment shall, before commencing construction or operation, notify the commission in writing of his intent and of the nature and location of such development, on a form prescribed by the commission together with such documents as the commission deems necessary. The commission shall within 30 days of receipt of such notification, either approve the proposed development, upon such terms and conditions as the commission deems appropriate, or schedule a hearing thereon in the manner hereinafter provided.

Sec. 4. R. S., T. 38, § 483-A, additional. Title 38 of the Revised Statutes, as amended, is further amended by adding a new section 483-A to read as follows:

§ 483-A. Fees

The commission, after notice and hearing thereon, may establish and thereafter amend, reasonable fees for the administration of this Article. Notice of proposed fees or amendments thereof, together with notice of the time, place and date of a hearing thereon shall be published at least 3 times in the state paper and such other daily papers circulated in the State as the commission believes will bring the proposals to the attention of all interested parties at least 30 days prior to holding the hearing. All such fees shall be paid over to the General Fund.

Sec. 5. R. S., T. 38, § 484, sub-§ 2, amended. Subsection 2 of section 484 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is amended to read as follows:

2. Traffic movement. The proposed development has made adequate provision for loading, parking and traffic movement ~~from the development area onto public roads~~ of all types of traffic, resulting from or connected with the development.

Sec. 6. R. S., T. 38, § 484, amended. The last paragraph of section 484 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is amended to read as follows:

Any person who has notified the commission, pursuant to section 483, of his intent to ~~create~~ construct or operate a development which may substantially ~~affecting local~~ affect environment shall, upon receipt of notice that the commission has determined to hold a hearing under this section, immediately defer or suspend construction or operation with respect to such development until the commission has issued its order after such hearing.

Sec. 7. R. S., T. 38, § 484-A, additional. Title 38 of the Revised Statutes, as amended, is further amended by adding a new section 484-A, to read as follows:

§ 484-A. Certificate of operation or occupancy

No person, whose development has received the approval with conditions of the commission shall sell, lease, rent or otherwise operate the development until the commission has ascertained that the conditions imposed by it upon the development have been complied with or that there is reasonable assurance that said conditions will be complied with. Upon ascertaining that the conditions have been complied with or will be complied with, the commission shall issue to the developer a "Certificate of Operation or Occupancy". The commission shall either issue such certificate or deny its issuance within 14 days of the receipt of the request for the certificate.

Sec. 8. R. S., T. 38, § 487, repealed and replaced. Section 487 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 487. Right to a hearing; and judicial review

Any person whose development the commission has approved with conditions without a hearing or has been denied a "Certificate of Operation or Occupancy" may request a hearing by the commission, in writing within 30 days after notice of such action, for the purpose of reviewing said action and modifying or reversing it as appropriate. Upon receipt of such request, the commission shall schedule a hearing in accordance with section 484.

Any person, with respect to whose development the commission has issued an order after hearing pursuant to this section or section 484 may within 30 days after notice of such order, appeal therefrom to the Supreme Judicial Court sitting as the law court. Notice of such appeal shall be given by the appellant to the commission. The proceedings shall not be de novo. Review shall be limited to the record of the hearing before and the order of the commission. The court shall decide whether the commission acted regularly and within the scope of its authority. It shall also determine whether the commission's order was clearly erroneous.

On the basis of such decision the court may enter judgment affirming such determination or remand the matter to the commission for further consideration.

Sec. 9. R. S., T. 38, § 488, amended. Section 488 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, is amended to read as follows:

§ 488. Applicability

This subchapter shall not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970 or to any development the construction and operation of which as been specifically authorized by the Legislature prior to the effective

date hereof ~~or to public service corporation transmission lines~~. This exemption section does not apply to any development which is the result of putting a previously existing structure to a substantially different use.

**Sec. 10. R. S., T. 38, § 489, additional.** Title 38 of the Revised Statutes, as amended by section 2 of chapter 571 of the public laws of 1969, is further amended by adding a new section 489, to read as follows:

**§ 489. Regulatory powers**

The commission shall from time to time adopt, amend, repeal and enforce rules and regulations necessary to carry out the intent of this Article.

**STATEMENT OF FACT**

It is the purpose of this amendment to : (1) include state, municipal, quasi-municipal and educational developments and developments of 10 acres or more and structures covering a floor space of 60,000 square feet and specifically subdivisions, within the coverage of the Site Location of Development Law; (2) to specifically authorize the Environmental Improvement Commission to design an application form; (3) to specifically authorize the Environmental Improvement Commission to approve developments upon conditions without holding a hearing thereon; (4) to charge reasonable fees for the administration of this law; (5) to authorize the Environmental Improvement Commission to inquire into the impact of the development upon traffic outside the development; (6) to require developers to get a "Certificate of Operation or Occupancy" to insure they have complied with all conditions of approval; (7) to grant developers receiving conditional approval without a hearing the right to a hearing; (8) to apply the "clearly erroneous" rule of evidence to findings of the Environmental Improvement Commission; (9) to specifically provide that changes in use of previously existing structures are not exempt from the law; (10) to grant the Environmental Improvement Commission specific power to adopt rules and regulations and (11) to include public service corporation transmission lines within the law.