

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 1425**

H. P. 1034

House of Representatives, March 9, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Simpson, of Standish.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Clarifying the Statute Relating to Realty Subdivisions.**

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

**Sec. 1. R. S., T. 12, § 4801, amended.** The first paragraph of section 4801 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, is amended to read as follows:

In all areas of the State, whether subject or not to less stringent local zoning, subdivision control or other police power land use controls, **or to Title 38, chapter 3, subchapter I, Article 6**, a lot ~~or parcel~~ of land which is not served by public or private community sewer whether created by plat, ~~or~~ laid out in metes and bounds **or otherwise described**, shall not be used for single family residential purposes unless such lot ~~or parcel~~ of land **is contains** at least 20,000 square feet **with a minimum frontage of 100 feet in size**.

**Sec. 2. R. S., T. 12, § 4801, amended.** The 2nd paragraph of section 4801 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, is repealed.

**Sec. 3. R. S., T. 12, §§ 4801-A - 4801-B, additional.** Title 12 of the Revised Statutes is amended by adding 2 new sections 4801-A and 4801-B to read as follows:

**§ 4801-A. Single family residential; smaller lots**

A lot containing less than 20,000 square feet may be used for single family residential purposes if approved by the Department of Health and Welfare on the basis of percolation tests, soil type, soil observation holes made in a representative manner, and recommendations by a registered engineer, unless

in conflict with more stringent regulations of the municipality or the Environmental Improvement Commission. The results of such tests and the engineering recommendations shall be submitted in a written report by the landowner to the Department of Health and Welfare for approval. The department shall issue a written notice of its decision within 30 days after a proposed use of such lot has been submitted, and if its disapproval is indicated, reasons for the same shall be listed.

#### § 4801-B. Definitions

Single family residential purposes means a house, house trailer or mobile home designed to house a single family, and shall include those dwellings which are used seasonally as well as those used permanently.

Multiple unit housing shall mean a building which is designed to house 2 or more families.

Clustered unit housing shall mean 2 or more buildings, on lots contiguous to each other, each building being designed for use by one or more families and shall include trailer or mobile home parks.

Other land use activity shall mean commercial use or a combination of commercial use and family dwellings.

Sec. 4. R. S., T. 12, §§ 4802-4803, amended. Sections 4802 and 4803 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, are amended to read as follows:

#### § 4802. Multiple and clustered unit housing; lot size

A lot ~~or parcel or lots~~ of land ~~as described in section 4801~~ which ~~is~~ are used for multiple ~~unit~~ or clustered unit housing or any other land use activity, which housing or activity must dispose of wastes in excess of the waste disposal requirements of normal single family residential use, must have a minimum lot size which is greater than the requirements stated in section 4801 in the same proportion as the actual waste disposal requirements of these multiple or clustered units of housing or other land use activities is greater than that of single family residential use.

#### § 4803. Lesser size lot

~~Notwithstanding the provisions of section 4802, a~~ A developer person who contemplates ~~clustering house units or creating a planned unit development~~ erecting multiple or clustered unit housing or other land use activity may have the state's minimum lot size requirements waived with respect to his development upon a showing that suitable alternative arrangements have been made for the entire development proposed for waste disposal and water supply or that a permanently reserved open area may suitably be used as a drainage area and that the state's waiver will in no way pose a threat to health, safety or the general welfare. Compliance with local zoning, subdivision control or any other land use controls, including any imposed by the Environmental Improvement Commission ~~if any~~, is in no way affected by this provision.

Sec. 5. R. S., T. 12, § 4804, repealed and replaced. Section 4804 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 4804. Exemption

No person shall be required to comply with these provisions if the lot or lots owned by him were purchased on or before October 1, 1969 or if a plan of said lots was recorded prior to January 1, 1970.

Sec. 6. R. S., T. 12, § 4804-A, additional. Title 12 of the Revised Statutes is amended by adding a new section 4804-A to read as follows:

§ 4804-A. Appeal

An aggrieved party may appeal any adverse decision of the Department of Health and Welfare to the Superior Court in the county where the land is located. Such appeal shall be taken within 30 days of receipt of the department's decision.

Sec. 7. R. S., T. 12, § 4805, amended. Section 4805 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, is amended to read as follows:

§ 4805. Charge for services of department

The Department of Health and Welfare shall charge \$10 per lot to service applications for approval, but not more than \$50 for any one ~~subdivision~~ development.

Sec. 8. R. S., T. 12, § 4806, amended. Section 4806 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, is amended by adding 2 new sentences to read as follows:

Alternatively or in addition thereto the Department of Health and Welfare may seek an injunction to prevent a claimed violation. The Superior Court in the county where the land is located shall have jurisdiction.

### STATEMENT OF FACT

This bill is an attempt to clarify chapter 365 of the public laws of 1969. There are no substantive changes involved.