

MAINE STATE LEGISLATURE

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New Draft of: H. P. 467, L. D. 595

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1800

H. P. 1380

House of Representatives, June 1, 1971

Reported by Mr. Ault from Committee on Natural Resources and printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Municipal Regulation of Land Subdivisions.

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

R. S., T. 30, § 4956, repealed and replaced. Section 4956 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 4965. Land subdivisions

1. Defined. A subdivision shall be the division of a tract or parcel of land into 2 or more lots for the purpose of sale, development or building.

2. Local regulation. When a municipality has established a planning board, agency or office, such board, agency or office may adopt regulations governing subdivisions which shall control until superseded by provisions adopted by the legislative body of the municipality. Where a municipality has not established a planning board, agency or office, the municipal officers may adopt subdivision regulations which shall control until superseded by provisions adopted by the legislative body of the municipality.

3. Guidelines. When promulgating any subdivision regulations and when reviewing any subdivision for approval, the planning board, agency or office, or the municipal officers, shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

A. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and

its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

F. Will provide for adequate solid and sewage waste disposal;

G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

H. Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services;

I. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;

J. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any; and

K. The subdivider has adequate financial and technical capacity to meet the above stated standards.

In all instances the burden of proof shall be upon the person proposing the subdivision to affirmatively demonstrate that each of the above criteria has been satisfied.

The planning board, agency or office, or if none, the municipal officers, shall issue an order denying or granting approval of the proposed subdivision or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in this subsection, and to protect and preserve the public's health, safety and general welfare.

4. Enforcement. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the planning board, agency or office, or if none exists, by the municipal officers in the municipality where the subdivision is located, and recorded in the proper registry of deeds. No subdivision plat or plan shall be recorded by any register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such conveyance, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.

STATEMENT OF FACT

The purpose of this bill is to enable municipalities to regulate subdivisions and to provide guidelines for the exercise of such regulatory powers. At the present time the powers granted to municipalities are vague. This bill is consistent with the concept of municipal home rule.

In addition the enforcement provisions of this bill would plug existing loopholes whereby developers circumvent the regulatory powers of municipalities. It also permits the Attorney General to assist towns in the enforcement of the act, since often the limited financial resources of small towns prevent them from pursuing time-consuming and expensive litigation.