

# MAINE STATE LEGISLATURE

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New Draft of: S. P. 723, L. D. 1981  
FIRST SPECIAL SESSION

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 2045

S. P. 767

In Senate, February 24, 1972

Reported by Senator Schulten of Sagadahoc from Committee on Natural Resources and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

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AN ACT to Revise the Site Location of Development Law.

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

**Sec. 1. R. S., T. 38, § 481, amended.** The first paragraph of section 481 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:

The Legislature finds that the economic and social well-being of the citizens of the State of Maine depend upon the location of **state, municipal, quasi-municipal, educational, charitable,** commercial and industrial developments with respect to the natural environment of the State; that many developments because of their size and nature are capable of causing irreparable damage to the people and the environment in their surroundings; that the location of such developments is too important to be left only to the determination of the owners of such developments; and that discretion must be vested in state authority to regulate the location of developments which may substantially affect environment.

**Sec. 2. R. S., T. 38, § 482, sub-§§ 2 and 4, amended.** 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 amended to read as follows:

2. **Development which may substantially affect the environment.** "Development which may substantially affect the environment," in this Article called "development," means any **state, municipal, quasi-municipal, educational, charitable,** commercial or industrial development, **including subdivisions,** but excluding state highways and state aid highways, which ~~requires~~ require

a license from the ~~Environmental Improvement Commission~~ commission, or which occupies a land or water area in excess of 20 acres, or which contemplates drilling for or excavating natural resources, on land or under water, excluding borrow pits for sand, fill or gravel, regulated by the State Highway Commission and pits of less than 5 acres, or which occupies on a single parcel a structure or structures in excess of a ground area 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. 3. 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 the division of an existing parcel of land of more than 20 acres into 3 or more parcels within any 5-year period whether such division is accomplished by sale, lease or other transfer of interest unless each such resulting parcel is in excess of 20 acres.

Sec. 4. R. S., T. 38, § 483, amended. Section 483 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:

**§ 483. Notification required; commission action; administrative appeals**

Any person intending to construct or operate a development ~~which may substantially affect local environment~~ shall, before commencing construction or operation, notify the commission in writing of his intent and of the nature and location of such development, ~~together with such information as the commission may by regulation require.~~ The commission shall within ~~14~~ 30 days of receipt of such notification, either approve the proposed ~~location~~ development, upon such terms and conditions as are appropriate and reasonable, or disapprove the proposed development setting forth the reasons therefor or schedule a hearing thereon in the manner hereinafter provided.

Any person as to whose development the commission has issued an order without a hearing may request, in writing, within 30 days after notice, a hearing before the commission. Such request shall set forth, in detail, the findings and conclusions of the commission to which such person objects, the bases of such objections and the nature of the relief requested. Upon receipt of such request, the commission shall schedule and hold a hearing limited to the matters set forth in such request. Such hearing shall be scheduled in accordance with section 484.

Sec. 5. R. S., T. 38, § 484, sub-§§ 1, 2 and 3, amended. Subsections 1, 2 and 3 of section 484 of Title 38 of the Revised Statutes, as enacted by section 2 of chapter 571 of the public laws of 1969, are amended to read as follows:

1. **Financial capacity.** The ~~proposed development~~ developer has the financial capacity and technical ability to meet state air and water pollution control standards, and has made adequate provision for solid waste disposal,

the control of offensive odors, and the securing and maintenance of sufficient and healthful water supplies.

2. **Traffic movement.** The proposed development developer has made adequate provision for loading, parking and traffic movement of all types from the development area onto public roads out of or into the development area.

3. **No adverse effect on the natural environment.** The proposed development developer has made adequate provision for fitting itself the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, or natural resources or property values in the municipality or in adjoining neighboring municipalities.

Sec. 6. R. S., T. 38, § 484, amended. The next to 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:

Within ~~45~~ 30 days after the commission adjourns any hearing held under this section, it shall make findings of fact and issue an order granting or denying permission to the person proposing such development to construct or operate the same as proposed, or granting such permission upon such terms and conditions as the commission may deem advisable to protect and preserve the environment and the public's health, safety and general welfare.

Sec. 7. 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 substantially affecting local 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. 8. R. S., T. 38, § 484, amended. 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 by adding at the end the following new paragraph:

Any person securing approval of the commission, pursuant to this Article, shall maintain the financial capacity and technical ability to meet the state air and water pollution control standards until he has complied with such standards.

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 and as amended by section 3 of chapter 476 of the public laws of 1971, is further amended to read as follows:

§ 488. Applicability

This ~~subchapter~~ **Article** 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 has been specifically authorized by the Legislature prior to ~~the effective date hereof~~ **May 9, 1970**, or to public service corporation transmission lines except transmission lines carrying 125 kilovolts or more, **nor shall it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located.**

#### STATEMENT OF FACT

It is the purpose of this amendment: (1) to include state, municipal, quasi-municipal and educational developments except state highways within the coverage of this Site Location of Development Law; (2) to make it clear that subdivisions are within the coverage of the law, to define subdivisions in language consistent with other Maine statutes and to prevent developers from evading the Site Law by developing 19-acre parcels one year after another; (3) to allow the Environmental Improvement Commission to act upon an application without holding an expensive hearing when such hearing would be unproductive, yet allow a developer to require such a hearing if he were aggrieved by any order of the Environmental Improvement Commission; (4) to make certain time requirement changes in the administration of the law yet keep the ultimate time for processing applications substantially the same; (5) to make certain language changes to make the law more clear; and (6) make it clear that the annual renewal of camp lot leases with structures initially entered into prior to the effective date of this amendment are not subject to the provisions of the **Site Law**.