

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1818

H. P. 1362

House of Representatives, April 3, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Extend the Deadline for Mandatory Shoreland Zoning.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature has determined that it is in the public interest to encourage municipalities to zone land areas within 250 feet of a body of water; and

Whereas, the effective date for carrying out this public purpose is June 30, 1973; and

Whereas, resources for establishing the necessary guidelines have only recently been made available to the Department of Environmental Protection; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 12, § 4812, repealed and replaced. Section 4812 of Title 12 of the Revised Statutes, as enacted by chapter 535 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 4812. Municipal control

Cities and towns pursuant to presently existing enabling legislation are authorized to plan, zone and control the subdivision of land. With respect to the shoreland areas defined in section 4811, cities and towns hereafter called

municipalities shall adopt zoning and subdivision control ordinances according to the following schedule.

1. Prior to July 1, 1973. Prior to July 1, 1973 each municipality shall have appointed an appropriate municipal body with responsibility for preparing such ordinances as are necessary for compliance with this chapter and shall certify such appointment to the Department of Environmental Protection.

2. Prior to April 1, 1974. Prior to April 1, 1974 each municipality shall have:

A. Prepared a comprehensive plan adequate to comply with the requirements of Title 30, section 4961 and this chapter and filed a copy of said plan with the Department of Environmental Protection;

B. Adopted a shoreland protection ordinance embodying minimum performance standards for shoreland development and the administrative processes necessary for enforcing such standards and filed a copy of said ordinance with the Department of Environmental Protection.

3. Prior to April 1, 1975. Prior to April 1, 1975 each municipality shall have adopted subdivision and zoning ordinances adequate to comply with the requirements of this chapter for shoreland protection.

Sec. 2. R. S., T. 12, § 4813, amended. Section 4813 of Title 12 of the Revised Statutes, as enacted by chapter 535 and as amended by section 12 of chapter 618, both of the public laws of 1971, is further amended to read as follows:

§ 4813. Municipal failure to accomplish purposes

If any municipality fails to adopt zoning and subdivision control ordinances as required by section 4812 for shoreland areas as defined in section 4811 by June 30, 1973 or if the Board Department of Environmental Protection and the Maine Land Use Regulation Commission determine that particular municipal ordinances fail to comply with guidelines duly adopted by the department for sanitation, soil suitability, location and size of structures and signs, erosion control, alteration of high water table areas and cutting of vegetation, or because of their laxity and permissiveness fail to accomplish the purposes outlined in section 4811, the Board Department of Environmental Protection and the Maine Land Use Regulation Commission shall, following consultation with the State Planning Office, with respect to these shoreland areas, adopt suitable ordinances for these municipalities, which ordinances the respective municipalities shall then administer and enforce.

Sec. 3. R. S., T. 12, § 4814, amended. Section 4814 of Title 12 of the Revised Statutes, as enacted by chapter 535 and as amended by section 12 of chapter 618, both of the public laws of 1971, is further amended to read as follows:

§ 4814. Cooperation

The Board Department of Environmental Protection the Maine Land Use Regulation Commission, municipalities and all state agencies shall mutually

cooperate to accomplish the objectives of this chapter. To that end, ~~these commissions~~ **the department** shall consult with the governing bodies of municipalities and to whatever extent necessary with other state agencies to secure voluntary uniformity of regulations, so far as practicable, and shall extend all possible assistance therefor.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This revision extends the date for the adoption of shoreland protection ordinances by providing interim steps and a final adoption date of April 1, 1975, in order to allow state and local agencies adequate time to respond to the intent of the law in an effective manner. It also relieves the Maine Land Use Regulation Commission from responsibility for a law which does not affect its jurisdiction, although that agency retains similar powers in the unorganized territory.

Finally, it specifically notes the requirement in current law, Title 30, section 4961, that an appropriate comprehensive plan precede the adoption of a municipal zoning ordinance, and adds specific areas of concern for consideration in municipal ordinances, by way of guidance.