

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2006

H. P. 1935

Office of the Clerk of the House

The Committee on Natural Resources suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mrs. Masterton of Cape Elizabeth.

Cosponsor: Mr. Spencer of Standish.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

**AN ACT to Clarify Certain Definitions under the Subdivision Law and to Set Out the Intent of the Legislature in Enacting that Law.**

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

**Sec. 1. 30 MRSA § 4956, sub-§ 1, 1st ¶,** as last repealed and replaced by PL 1975, c. 475, § 1, is amended to read:

A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings **building** or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section. **A parcel is divided into lots through development or building when 3 or more units are placed upon the parcel, whether or not the units have common walls. For the purposes of this section, unit is defined as space allocated for dwelling purposes, including, but not limited to, multiple-family housing, mobile home parks, motels and hotels; space allocated for commercial purposes, including, but not limited to, shopping centers and malls and office complexes; space allocated for industrial purposes, including, but not limited to, industrial parks; and space allocated for recreational purposes, including, but not limited to, campgrounds.**

**Sec. 2. 30 MRSA § 4956, sub-§ 1,** as last repealed and replaced by PL 1975, c. 475, § 1, is amended by adding after the 3rd paragraph the following new paragraph to read:

**It is the intent of the Legislature that this section foster planned growth in the various municipalities; focus on the effect of the proposed subdivision on the parcel of land; and protect the health, safety and welfare of persons acquiring an interest in land. Nothing in this section shall be construed to prevent a municipality from enacting by ordinance a more restrictive definition of subdivision.**

#### STATEMENT OF FACT

The law court in the recent case of Town of Arundel v. Morrill and Frances Swain, (Me. 1977) 374 A. 2d 317, considered among other things the presumed intent of the Legislature when it adopted Title 30, section 4956, as amended. The court focused heavily on the presumed intent of the Legislature to protect "...the purchaser or lessee of land from unscrupulous developers..." Many people feel the Legislature when adopting section 4956 intended to foster planned growth and to allow consideration of the effect of the proposed subdivision on the parcel in question. Therefore, it has become necessary for the Legislature to declare its intent and clarify the nature of a subdivision created by building or development.