

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1122**

H. P. 946

House of Representatives, March 5, 1981

Submitted by the Department of Human Services pursuant to Joint Rule 24.

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

EDWIN H. PERT, Clerk

Presented by Representative Masterton of Cape Elizabeth.

Cosponsor: Representative Benoit of South Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Amend an Existing Law Pertaining to Conversion of Seasonal Residences in Shoreland Areas.**

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

Sec. 1. 30 MRSA § 3223, sub-§ 3 as enacted by PL 1977, c. 523, § 1, is repealed and the following enacted in its place:

3. **Seasonal conversion permit.** A seasonal conversion permit shall be obtained from the local plumbing inspector prior to converting a seasonal residence of a year-round residence if the structure is located in an area zoned under Title 12, chapter 424, mandatory shoreland zoning. For purposes of this subsection, a seasonal residence is one which is occupied less than 180 days in any one calendar year. A year-round residence is one which is occupied more than 180 days in any one calendar year.

A municipality may adopt by ordinance the following method of establishing conversion of a seasonal to a year-round dwelling. The tax assessor shall include, with the tax bill to all owners of dwellings in a shoreland zone, a notice of intended occupancy, to be filed by the owner with the tax assessor within 30 days, and to be used by the local code enforcement officer for enforcement. Notice of intended occupancy forms shall be based upon the sample included in the Maine State Plumbing Code and shall provide for a written statement by the owner of the

estimated number of days, in the year following the filing date, the dwelling will be occupied, either by the owner, his family, his guests, lessees or other persons. Failure to file notice of occupancy is punishable by a penalty of \$25, payable to the town clerk. Providing false information on the notice of occupancy is punishable by a penalty of \$25, payable to the town clerk. An owner may file with the tax assessor, without penalty, a corrected notice of occupancy for a longer or shorter period than that stated in his original notice of occupancy.

This subsection shall not be construed to require a seasonal conversion permit for any residence which is a seasonal residence as defined in this subsection.

Sec. 2. 30 MRSA § 3223, sub-§ 3-A is enacted to read:

3-A. Conditions for issuance of permit. No permit for conversion of a seasonal residence to a year-round residence may be issued unless one of the following conditions is met:

A. Records of the State, municipality, applicant or installer of sewage disposal systems show that the residence's sewage disposal system meets the standards of the Maine State Plumbing Code, if the system is a subsurface system, or the requirements of Title 38 if the system is a surface discharge;

B. Based upon a site evaluation performed by a licensed site evaluator, licensed under Title 22, section 42, subsection 3-A, the applicant can demonstrate that site conditions will permit the installation of a subsurface sewage disposal system meeting the requirements of the Maine State Plumbing Code or the requirements of Title 38 in the event of future malfunction of the system; or

C. The residence unit's sewage system is connected to an approved sanitary sewer system.

Sec. 3. 30 MRSA § 3223, sub-§ 4, as enacted by PL 1977, c. 523, § 2, is repealed and the following enacted in its place:

4. Variances. The owner of a seasonal residence who applies for a conversion permit under subsection 3 may be granted a variance from the requirements of subsection 3, if based upon the site evaluation required in subsection 3-A, paragraph B, the plumbing inspector finds that in the event of a malfunction of the existing system, a replacement sewage system can be installed which will be in substantial compliance with the Maine State Plumbing Code and that the replacement system will not be likely to endanger the quality of the adjacent water bodies or adjacent private water supplies.

In the event of a malfunction, the owner of the converted seasonal residence shall repair or replace the existing sewage system with a system approved by the plumbing inspector so as to bring the system into substantial compliance with the Maine State Plumbing Code and insure that the system will not endanger the quality of adjacent water bodies or of adjacent private water supplies. No variance for a new, expanded or replacement subsurface wastewater disposal system shall be approved within the shoreland zoning area which is less

**restrictive than the requirements of this subsection. A seasonal conversion permit shall not be approved if a holding tank is utilized as a means of wastewater disposal or storage.**

#### STATEMENT OF FACT

The seasonal conversion permit seeks to protect lakes, streams and coastal waters from septic waste seeping from inadequate "summer" septic systems which malfunction when a seasonal residence is converted to year-round use. This bill will promote better enforcement by changing the definition of year-round residence from physical criteria, which in themselves do not prove year-round or longer-than-seasonal occupancy, to 180 days' occupancy.

The bill provides for an alternative method of enforcement, to be adopted by municipal ordinance: A notice of intended occupancy for the year following the filing date issued along with the local tax bill to all shoreland area dwelling owners, to be filed by the owner within 30 days of receipt. The notice shall be based on a sample included in the Maine State Plumbing Code. Penalties are set for failure to file notice of occupancy and for providing false information. Provision is made for corrected notice of occupancy. Notices shall be filed with the tax assessor for use by the local code enforcement officer and penalties shall be paid to the town clerk.