

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1810, L.D. 2401)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 2430

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H.P. 1837

House of Representatives, April 6, 1984

Reported by Representative Mills from the Committee on Audit and Program Review and printed under Joint Rule 2.

Original bill presented by Speaker Martin of Eagle Lake and cosponsored by Senator Pray of Penobscot, Representative Rotondi of Athens and Representative Mills of Bethel.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

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AN ACT Concerning the Maine Land Use  
Regulation Commission.

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

Sec. 1. 12 MRSA §685-A, sub-§4, as amended by PL 1979, c. 497, §2, is further amended to read:

4. Land use standards considered as minimum requirements. Land use standards shall be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and insure compliance with state plans and policies.

Whenever the requirements of the adopted land use standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants,

1 the more protective of existing natural, recreation  
2 and historic resources shall govern.

3 Any portion of a land use district which subsequently  
4 becomes an organized municipality or part of an or-  
5 ganized municipality or any plantation which adopts  
6 planning, zoning and subdivision control as provided  
7 in Title 30, section 5621, shall continue to be regu-  
8 lated by the Maine Land Use Regulation Commission  
9 pursuant to this chapter until such time as the mu-  
10 nicipality or plantation of which the regulated dis-  
11 trict is then a part, shall adopt land use plans and  
12 regulations not less protective of the existing natu-  
13 ral, recreational or historic resources than those  
14 adopted by the commission. For a time period of 4  
15 years after initial commission approval of these  
16 plans and regulations, any revisions or amendments to  
17 the adopted plan and regulation that are less protee-  
18 tive than those in the adopted plan shall be submit-  
19 ted to the Land Use Regulation Commission for approv-  
20 al.

21 Any municipality organized after September 23, 1971,  
22 or any plantation which adopts planning, zoning and  
23 subdivision control as provided in Title 30, section  
24 5621, may submit to the commission and receive the  
25 approval of the commission of the following:

26 A. A comprehensive land use plan for such  
27 plantation or proposed city or town;

28 B. Standards for determining land use district  
29 boundaries and uses permitted within such dis-  
30 tricts in such plantation or proposed city or  
31 town;

32 C. A land use district boundary map for such  
33 plantation or proposed city or town;

34 D. Such other proposed regulations or standards  
35 as the commission deems to be necessary to  
36 achieve the purpose, intent and provisions of  
37 this chapter; and

38 E. Upon request of the municipality or  
39 plantation, the commission shall prepare such  
40 plans, maps, regulations and standards as it may

1           deem necessary to meet minimum planning and zon-  
2           ing standards for its approval thereof.

3           Upon obtaining the foregoing approval, the  
4           plantation, city or town shall thereafter adopt, ad-  
5           minister and enforce such approved plans, maps, regu-  
6           lations and standards.

7           From time to time, the commission may review the ad-  
8           ministration and enforcement of local land use plans  
9           and regulations by plantations and municipalities  
10          which have adopted land use plans, maps, regulations  
11          and standards approved by the commission. If, fol-  
12          lowing the review, the commission finds that any of  
13          the following have accrued, the commission may rees-  
14          tablish its jurisdiction over that plantation or mu-  
15          nicipality:

16           A. A plantation or municipality has repealed the  
17           land use plan, maps, standards or regulations  
18           necessary to satisfy the requirements of this  
19           subsection or has substantially modified the land  
20           use plan, maps, standards or regulations so that  
21           the resources of the plantation or municipality  
22           are not reasonably protected.

23           B. A plantation or municipality has abolished or  
24           does not have functioning the administrative  
25           bodies and officers necessary to implement the  
26           land use program as approved by the commission,  
27           normally a planning board, board of appeals and  
28           code enforcement officer are included, but this  
29           may vary depending on the local program; or

30           C. A plantation or municipality has not adminis-  
31           tered or enforced its land use plan, maps, stan-  
32           dards or regulations in a manner which reasonably  
33           protects the resources in the plantation or mu-  
34           nicipality involved.

35           The action by the commission shall conform with the  
36           provisions for rulemaking of the Maine Administrative  
37           Procedure Act, Title 5, chapter 375.

38           Action taken by the commission to reestablish its ju-  
39           risdiction over a plantation or municipality shall be  
40           effective immediately, but shall be submitted to the

1 current or next regular session of the Legislature  
2 for approval. If the Legislature fails to act, the  
3 action shall continue in effect.

4       Sec. 2. 12 MRSA §685-D, as enacted by PL 1983,  
5 c. 561, §1, is repealed.

6       Sec. 3. Maine Land Use Regulation Commission  
7 funding study. There is established a 6-member study  
8 committee to review funding of the Maine Land Use  
9 Regulation Commission. The committee shall include  
10 one member of the Senate appointed by the President  
11 of the Senate, 2 members of the House of Representa-  
12 tives appointed by the Speaker of the House, one  
13 plantation official of a plantation under the juris-  
14 diction of the Maine Land Use Regulation Commission  
15 appointed by the Governor, one municipal official of  
16 a municipality under the jurisdiction of the Maine  
17 Land Use Regulation Commission appointed by the Gov-  
18 ernor and the chairman of the Maine Land Use Regula-  
19 tion Commission or his designee.

20       The committee shall review the proportions of the  
21 commission's budget which have been funded through  
22 the General Fund, the Municipal Cost Component and  
23 other sources. In particular, the committee shall  
24 review funding the commission through taxes or  
25 charges levied on the unorganized townships, planta-  
26 tions and towns within its jurisdiction, as well as  
27 through the General Fund. The committee shall solici-  
28 t the views of landowners in the unorganized town-  
29 ships, landowners and local officials in the planta-  
30 tions and towns within the commission's jurisdiction,  
31 the public and other interested parties.

32       The committee shall present its recommendations  
33 on methods to provide for funding of the commission  
34 to the joint standing committee of the Legislature  
35 having jurisdiction over taxation matters by February  
36 1, 1985. Upon presentation of its report to the Leg-  
37 islature, the study committee shall terminate.

38   FISCAL NOTE

39       This bill has minor costs which can be absorbed  
40 with current resources.

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STATEMENT OF FACT

2           The Maine Land Use Regulation Commission is fi-  
3 nanced through General Fund appropriations, with par-  
4 tial reimbursement from the Municipal Cost Component.  
5 In addition, under a law enacted last year, but which  
6 is repealed by section 2 of this bill, a portion of  
7 the agency's General Fund appropriation would also  
8 have been reimbursed by a charge on the plantations  
9 and towns within the jurisdiction of the commission.  
10 Section 3 of this bill sets up a study committee to  
11 review the funding of the commission. The committee  
12 will report its findings to the Legislature by Febru-  
13 ary 1, 1985.

14           Section 1 amends the commission's enabling stat-  
15 ute to delete a 4-year oversight period by the com-  
16 mission of communities which assume administration of  
17 local land use controls. The new draft authorizes  
18 the commission to review the status of local adminis-  
19 tration and enforcement of land use controls by those  
20 communities. The commission could reestablish its  
21 jurisdiction, subject to legislative approval, over  
22 plantations or municipalities which fail to reason-  
23 ably protect the resources within their communities.

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