

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1988

7
8 H.P. 1408

House of Representatives, February 7, 1986

9 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

10 Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

11 Presented by Representative Murphy of Kennebunk.

Cosponsored by Senator Pearson of Penobscot, Representative Scarpino
of St. George and Senator Chalmers of Knox.

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT Concerning the Construction and Effect
19 of the Repeal of Acts and Ordinances.
20

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

23 1 MRSA §302, as repealed and replaced by PL 1973,
24 c. 146, is repealed and the following enacted in its
25 place:

26 §302. Construction and effect of repealing and
27 amending Acts

28 The repeal of an Act, resolve or municipal ordi-
29 nance passed after March 4, 1870, does not revive any
30 law or ordinance in force before the Act, resolve or
31 ordinance took effect. The repeal or amendment of an
32 Act or ordinance does not affect any punishment, pen-
33 alty or forfeiture incurred before the repeal or
34 amendment takes effect, or any action or proceeding
35 pending at the time of the repeal or amendment, for

1 an offense committed or for recovery of a penalty or
2 forfeiture incurred under the Act or ordinance re-
3 pealed or amended. Actions and proceedings pending at
4 the time of the public notice prior to the passage,
5 amendment or repeal of an Act or ordinance are not
6 affected by the passage, amendment or repeal.

7 As used in this section, "public notice" regard-
8 ing an ordinance means:

9 1. Hearing required by ordinance. The warrant
10 required pursuant to Title 30, section 2051, in the
11 case of an open town meeting vote or the notice of
12 public hearing if a hearing is required by ordinance
13 before the open town meeting vote;

14 2. Referendum. The public hearing notice re-
15 quired under Title 30, section 2061, subsection 4, in
16 the case of a referendum vote; or

17 3. Hearing required by charter. The notice re-
18 quired under a municipal charter to call for a public
19 hearing and vote of the municipal officers or the
20 voters of the municipality, whichever is applicable.

21 For the purposes of this section, a proceeding
22 shall include, but not be limited to, petitions or
23 applications for licenses or permits required by law
24 at the time of their filing. For the purposes of
25 this section, an application shall not be considered
26 pending, regardless of any action taken by the re-
27 viewing authority, unless the applicant has provided
28 all the information necessary to meet the preliminary
29 application requirements established by any applica-
30 ble law or ordinance and the reviewing authority has
31 conducted at least one substantive review of that in-
32 formation.

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STATEMENT OF FACT

2 The bill is intended to clarify whether an appli-
3 cation is "pending" for the purpose of review. If it
4 is "pending," its review will not be affected by the
5 adoption, amendment or repeal of an Act or ordinance
6 while under review by the reviewing authority. Par-
7 ticularly with regard to ordinances, an application
8 must be "pending" when public notice, as defined in
9 the bill, is given in order to avoid review under any
10 new or amended law. This bill attempts to define
11 when an application is "pending" and is in direct re-
12 sponse to the Supreme Judicial Court's decisions in
13 Littlefield v. Inhabitants of Town of Lyman, 447 A.
14 2d 1231 (Me. 1982) and Maine Isle Corp., Inc., v.
15 Town of St. George, 499 A. 2d 149 (Me. 1985). It is
16 intended to make it clear that when a reviewing au-
17 thority discusses an application for the purpose of
18 determining whether all the required preliminary in-
19 formation has been provided, such a discussion does
20 not constitute a substantive review of the applica-
21 tion. Substantive review constitutes a review of the
22 application to determine whether it complies with the
23 substantive review criteria or performance standards
24 of the relevant law or ordinance. Until a substan-
25 tive review is conducted, an application is not
26 "pending."

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