

MAINE STATE LEGISLATURE

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(Emergency)
(New Draft of S.P. 479, L.D. 1442)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1764

S.P. 601

In Senate, June 8, 1987

Reported by Senator Tuttle of York for the Committee on Energy and Natural Resources and printed under Joint Rule 2. Original Bill sponsored by Senator Andrews of Cumberland. Cosponsored by: Representative Mayo of Thomaston, Representative Carter of Winslow, Senator Randall of Washington.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

1 **AN ACT to Enhance Local Control of Community**
2 **Growth and Strengthen Maine's Land Use**
3 **Laws.**
4

5 **Emergency preamble.** Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, providing for a strong partnership be-
9 tween State Government and local government to im-
10 prove land use planning efforts is essential; and

11 Whereas, adequate technical and financial re-
12 sources are not currently available to municipalities
13 for comprehensive planning efforts, development of

1 land use ordinances and enforcement of land use laws;
2 and

3 Whereas, the conservation of diversity and abun-
4 dance of Maine's outstanding scenic, wildlife, fish-
5 eries, recreational and other natural resources is
6 essential to Maine's quality of life; and

7 Whereas, the vitality of Maine's natural
8 resource-based industries through reservation of
9 working harbors for marine-related industries, pres-
10 ervation of access to the coast, and prevention of
11 prime agricultural and forest land loss is essential
12 to the economic well-being of Maine citizens; and

13 Whereas, growth must be managed to accommodate
14 needed residential, commercial and industrial devel-
15 opment that provides long-term, high quality employ-
16 ment for Maine's citizens; and

17 Whereas, the cost of providing new infrastructure
18 and public services, a community's ability to provide
19 services to its residents and the availability of
20 affordable housing in all Maine communities are is-
21 sues of pressing concern to all Maine citizens; and

22 Whereas, certain gaps in Maine land use laws ex-
23 ist which require immediate remedy to avoid further
24 development beyond the review of state and local
25 agencies; and

26 Whereas, growth pressures throughout the State
27 are creating a substantial burden on state, local and
28 natural resources and threaten the quality of life of
29 all Maine citizens; and

30 Whereas, in the judgment of the Legislature,
31 these facts create an emergency within the meaning of
32 the Constitution of Maine and require the following
33 legislation as immediately necessary for the preser-
34 vation of the public peace, health and safety; now,
35 therefore,

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

1 Sec. 1. 12 MRSA §682, sub-§2, as repealed and
2 replaced by PL 1971, c. 544, §28-B, is amended to
3 read:

4 2. Subdivision. A subdivision is a division of
5 an existing parcel of land into 3 or more parcels or
6 lots within any 5-year period, whether this division
7 is accomplished by platting of the land for immediate
8 or future sale, or by sale of the land by metes and
9 bounds or by leasing.

10 No sale or leasing of any lot or parcel shall may be
11 considered a subdivision if such lot or parcel is not
12 less than 40 acres in size, except where when the in-
13 tent of such conveyance is to avoid the objectives of
14 this statute or if such lots are located wholly or
15 partly within any area within 250 feet of a lake or
16 pond greater than 10 acres in area or any body of wa-
17 ter with a drainage area greater than 50 square miles
18 and when such lots have a lot depth to shore frontage
19 ratio greater than 5 to 1 in which case the commis-
20 sion shall review the subdivision. When 3 or more
21 lots of 40 or more acres are created a plan must be
22 filed with the registry of deeds and the State Tax
23 Assessor.

24 Sec. 2. 30 MRSA §4956, sub-§1, as amended by PL
25 1983, c. 458, §10, is further amended to read:

26 1. Defined. A subdivision is the division of a
27 tract or parcel of land into 3 or more lots within
28 any 5-year period, which period begins after Septem-
29 ber 22, 1971, whether accomplished by sale, lease,
30 development, buildings or otherwise, provided that a
31 division accomplished by devise, condemnation, order
32 of court, gift to a person related to the donor by
33 blood, marriage or adoption, unless the intent of
34 such gift is to avoid the objectives of this section,
35 or by transfer of any interest in land to the owner
36 of land abutting thereon, shall not be considered to
37 create a lot or lots for the purposes of this sec-
38 tion.

39 In determining whether a tract or parcel of land is
40 divided into 3 or more lots, the first dividing of
41 such tract or parcel, unless otherwise exempted here-
42 in, shall be considered to create the first 2 lots

1 and the next dividing of either of said first 2 lots,
2 by whomever accomplished, unless otherwise exempted
3 herein, shall be considered to create a 3rd lot, un-
4 less both such dividings are accomplished by a subdiv-
5 ider who shall have retained one of such lots for
6 his own use as a single family residence for a period
7 of at least 5 years prior to such 2nd dividing. Lots
8 of 40 or more acres shall not be counted as lots, ex-
9 cept where such lots are located wholly or partly
10 within any shoreland zone in which case municipal re-
11 view may be required by the municipality, provided
12 that the average lot depth to shore frontage ratio is
13 greater than 5 to one. Where 3 or more lots of 40 or
14 more acres are developed, a plan must be filed with
15 the registry of deeds and the municipal authority re-
16 sponsible for reviewing subdivisions.

17 For the purposes of this section, a tract or parcel
18 of land is defined as all contiguous land in the same
19 ownership, provided that lands located on opposite
20 sides of a public or private road shall be considered
21 each a separate tract or parcel of land unless such
22 road was established by the owner of land on both
23 sides thereof.

24 A "densely developed area" is defined as any commer-
25 cial, industrial or compact residential area of 10 or
26 more acres with an existing density of at least one
27 principal structure per 2 acres. A principal struc-
28 ture is defined as any building other than one which
29 is used for purposes wholly incidental or accessory
30 to the use of another building on the same premises.

31 **Sec. 3. Maine Commission on Land Conservation**
32 **and Economic Development established.** There is es-
33 tablished the Maine Commission on Resource Conserva-
34 tion and Economic Development. The commission shall
35 be composed of 9 members. The President of the Sen-
36 ate shall appoint 3 members and the Speaker of the
37 House shall appoint 6 members. The members shall be
38 drawn from the Joint Standing Committee on Energy
39 and Natural Resources and the Joint Standing Commit-
40 tee on Taxation. The commission shall select a
41 chairman from its membership.

42 The commission shall conduct a study of the rela-
43 tionship between the well-being of the State's envi-

1 ronment, the rapid growth in land use pressures, the
2 quality of life for Maine's citizens and stable,
3 long-term economic development. The commission shall
4 review the findings and recommendations of recent
5 studies on state and local growth management prob-
6 lems. The commission shall hold public hearings in
7 all regions of the State to solicit public input.
8 The commission shall report its findings and recom-
9 mendations to the Second Regular Session of the 113th
10 Legislature by February 15, 1988.

11 Commission members shall be reimbursed for all
12 expenses and shall be compensated pursuant to the
13 Maine Revised Statutes, Title 3, section 2. The Ex-
14 ecutive Director of the Legislative Council shall
15 convene the first meeting of the commission no later
16 than 60 days following the effective date of this
17 Act.

18 The commission may retain consultants to provide
19 professional support for the commission's activities.
20 The commission may also request staff assistance from
21 the Legislative Council. The Executive Director of
22 the Legislative Council shall provide assistance in
23 the administration of commission members' compensa-
24 tion and expenses, personnel payroll and benefits.
25 The commission may request staff support from the
26 State Planning Office, the State Development Office
27 and the Department of Environmental Protection.
28 These offices and the department shall provide as-
29 sistance, if so requested.

30 **Sec. 4. Appropriation.** The following funds are
31 appropriated from the General Fund to carry out the
32 purposes of this Act.

33 1987-88

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35 Commission on Land Con-
36 servation and Economic
37 Development

38	Personal Services	\$ 4,950
39	All Other	15,550

1
2 Total \$20,500

3 **Emergency clause.** In view of the emergency cited
4 in the preamble, this Act shall take effect when ap-
5 proved.

6 STATEMENT OF FACT

7 The purpose of this new draft is to implement 2
8 measures of pressing importance to curtail the use of
9 so-called "spaghetti lots" to circumvent the basic
10 purposes of subdivision review in the organized and
11 unorganized areas of the State. The new draft also
12 modifies the study commission established in the
13 original bill by limiting membership to Legislators
14 and reducing the fiscal requirements of the study.
15 The committee is holding over comprehensive growth
16 management legislation pending the outcome of this
17 study. It is essential that the study start as soon
18 as possible in order that enough time is available
19 for the study.

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