

MAINE STATE LEGISLATURE

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of S.

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L.D. 2265
(Filing No. S- 481)

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STATE OF MAINE
SENATE
113TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT " B " to S.P. 870, L.D. 2265,
Bill, "AN ACT to Establish a Resource Protection Law."

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Amend the bill by striking out everything after
the title and inserting in its place the following:

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

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Sec. 1. 12 MRSA §682, sub-§2, as amended by PL
1987, c. 514, §1, is further amended to read:

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

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No sale or leasing of any lot or parcel may be
considered a subdivision if such lot or parcel is not
less than 40 acres in size, except when the intent of
such conveyance is to avoid the objectives of this
statute or if such lots are located wholly or partly
within any area within 250 feet of a lake or pond
greater than 10 acres in area or any body of water
with a drainage area greater than 50 square miles and
when such lots have a lot depth to shore frontage
~~ratio-greater-than-5-to-1-in-which-case-the-commission-~~

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1 shall review the subdivision. When 3 or more lots
2 of 40 or more acres are created a plan must be filed
3 with-the-registry-of-deeds-and-the-State-Tax-Assessor.

4 The creation of a lot or parcel more than 500 acres in
5 size shall not be counted as a lot for the purpose of
6 this subsection.

7 Sec. 2. 30 MRSA §4956, sub-§1, as amended by PL
8 1987, c. 514, §2, is further amended to read:

9 1. Defined. A subdivision is the division of a
10 tract or parcel of land into 3 or more lots within any
11 5-year period, which period begins after September 22,
12 1971, whether accomplished by sale, lease,
13 development, buildings or otherwise, provided that a
14 division accomplished by devise, condemnation, order
15 of court, gift to a person related to the donor by
16 blood, marriage or adoption or to a municipality,
17 unless the intent of such that gift is to avoid the
18 objectives of this section, or by transfer of any
19 interest in land to the owner of land abutting
20 thereon, shall not be considered to create a lot or
21 lots for the purposes of this section.

22 In determining whether a tract or parcel of land is
23 divided into 3 or more lots, the first dividing of
24 such tract or parcel, unless otherwise exempted
25 herein, shall be considered to create the first 2 lots
26 and the next dividing of either of said the first 2
27 lots, by whomever accomplished, unless otherwise
28 exempted herein, shall be considered to create a 3rd
29 lot, unless both such those dividings are
30 accomplished by a subdivider who shall have retained
31 one of such the lots for his own use as a single
32 family residence or for open space land, as defined in
33 Title 36, section 1102, for a period of at least 5
34 years prior to such that 2nd dividing. Lots of
35 40 or more acres shall not be counted as lots, except
36 where such lots are located wholly or partly within
37 any shoreland zone in which case municipal review may
38 be required by the municipality, provided that the
39 average lot depth to shore frontage ratio is greater
40 than 5 to one. Where 3 or more lots of 40 or more
41 acres are developed, a plan must be filed with the
42 registry-of-deeds-and-the-municipal-authority-

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1 responsible for reviewing subdivisions. The
2 creation of a lot or parcel more than 500 acres in
3 size shall not be counted as a lot for the purpose of
4 this section.

5 For the purposes of this section, a tract or parcel of
6 land is defined as all contiguous land in the same
7 ownership, provided that lands located on opposite
8 sides of a public or private road shall be considered
9 each a separate tract or parcel of land unless such
10 road was established by the owner of land on both
11 sides thereof.

12 A "densely developed area" is defined as any
13 commercial, industrial or compact residential area of
14 10 or more acres with an existing density of at least
15 one principal structure per 2 acres. A principal
16 structure is defined as any building other than one
17 which is used for purposes wholly incidental or
18 accessory to the use of another building on the same
19 premises.

20 Sec. 3. 30 MRSA §4956, sub-§2, ¶B, as repealed
21 and replaced by PL 1973, c. 465, §1, is amended to
22 read:

23 B. The municipal reviewing authority may, after a
24 public hearing, adopt, amend or repeal additional
25 reasonable regulations governing subdivisions
26 which shall control until amended, repealed or
27 replaced by regulations adopted by the municipal
28 legislative body. The municipal reviewing
29 authority shall give at least 7 days' notice of
30 such hearing.

31 (1) The regulations may provide for a
32 multi-stage application or review procedure
33 consisting of no more than 3 stages:
34 Preapplication sketch plan; preliminary plan;
35 and final plan. Each stage shall meet the
36 time requirements of paragraph D.

37 Sec. 4. 30 MRSA 4956, sub-§2, ¶C-1, as enacted
38 by PL 1975, c. 468, §2, is amended to read:

39 C-1. Upon receiving an application, the municipal

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1 reviewing authority shall issue to the applicant a
2 dated receipt. Upon receiving an application, the
3 municipal reviewing authority shall notify by mail
4 all abutting property owners of the proposed
5 subdivision, specifying the location of the
6 proposed subdivision and a general description of
7 the project. Within 30 days from receipt of an
8 application, the municipal reviewing authority
9 shall notify the applicant in writing either that
10 the application is a complete application or, if
11 the application is incomplete, the specific
12 additional material needed to make a complete
13 application. After the municipal reviewing
14 authority has determined that a complete
15 application has been filed, it shall notify the
16 applicant and begin its full evaluation of the
17 proposed subdivision.

18 Sec. 5. 30 MRSA §4956, sub-§3, ¶J, as amended
19 by PL 1985, c. 794, Pt. A, §2, is further amended to
20 read:

21 J. Is in conformance with a duly adopted
22 subdivision regulation or ordinance, comprehensive
23 plan, development plan, or land use plan, if
24 any. In making this determination, the
25 municipal reviewing authority is authorized to
26 interpret these ordinances and plans;

27 Sec. 6. 37-B MRSA §742, sub-§1, ¶C, as enacted
28 by PL 1983, c. 594, §33, is amended to read:

29 C. After the filing of the emergency proclamation
30 and in addition to any other powers conferred by
31 law, the Governor may:

32 (1) Suspend the enforcement of any statute
33 prescribing the procedures for conduct of
34 state business, or the orders or rules of any
35 state agency, if strict compliance with the
36 provisions of the statute, order or rule
37 would in any way prevent, hinder or delay
38 necessary action in coping with the emergency;

39 (2) Utilize all available resources of the
40 State Government and of each political

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- 1 subdivision of the State as reasonably
2 necessary to cope with the disaster emergency;
- 3 (3) Transfer the direction, personnel or
4 functions of state departments and agencies,
5 or units thereof, for the purposes of
6 performing or facilitating emergency services;
- 7 (4) Authorize the obtaining and acquisition
8 of property, supplies and materials pursuant
9 to section 821;—
- 10 (5) Enlist the aid of any person to assist
11 in the effort to control, put out or end the
12 emergency or aid in the caring for the safety
13 of persons;
- 14 (6) Direct and compel the evacuation of all
15 or part of the population from any stricken
16 or threatened area within the State, if he
17 deems this action necessary for the
18 preservation of life or other disaster
19 mitigation, response or recovery;
- 20 (7) Prescribe routes, modes of
21 transportation and destinations in connection
22 with evacuations;
- 23 (8) Control ingress and egress to and from a
24 disaster area, the movement of persons within
25 the area and the occupancy of premises
26 therein;
- 27 (9) Suspend or limit the sale, dispensing or
28 transportation of alcoholic beverages,
29 firearms, explosives and combustibles; and
- 30 (10) Make provision for the availability and
31 use of temporary emergency housing;—
- 32 (11) Order the termination, temporary or
33 permanent, of any process, operation, machine
34 or device which may be causing or is
35 understood to be the cause of the state of
36 emergency for which this proclamation was
37 made; and

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1 (12) Take whatever action is necessary to
2 abate, clean up or mitigate whatever danger
3 may exist within the affected area.

4 Sec. 7. 38 MRSA §347, sub-§2, as enacted by PL
5 1977, c. 300, §9, is amended to read:

6 2. Emergency procedures. Whenever it appears to
7 the board commissioner, after investigation, that
8 there is a violation of any provision of the laws or
9 regulations which it the department administers or
10 of the terms or conditions of any of its the
11 department's orders, which is creating or is likely to
12 create a substantial and immediate danger to public
13 health or safety, it the commissioner may order the
14 person or persons causing or contributing to such a
15 hazard to immediately take such actions as are
16 necessary to reduce or alleviate the danger. Service
17 of a copy of the board's commissioner's findings
18 and order issued under this emergency procedure shall
19 be made by the sheriff or a deputy sheriff within the
20 county where the person, to whom the order is
21 directed, operates or resides. In the event such
22 persons are so numerous that the specified method of
23 service is a practical impossibility or the board
24 commissioner is unable to identify the person or
25 persons causing or contributing to such a hazard,
26 the board commissioner shall make its the order
27 known through prominent publication or announcement in
28 news media serving the affected area.

29 The person to whom such the order is directed shall
30 comply therewith immediately. Such The order may
31 not be appealed to the Superior Court in the manner
32 provided in section 346, but such the person may
33 apply to the board for a hearing on such the order,
34 which hearing shall be held by the board within 48
35 hours after receipt of application therefor. Within 7
36 days after such the hearing, the board shall make
37 findings of fact and continue, revoke or modify the
38 order. The decision of the board may be appealed to
39 the Superior Court in the manner provided by section
40 346.

41 Sec. 8. 38 MRSA §347, sub-§6, as enacted by PL

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1 1983, c. 300, §9, is amended to read:

2 6. Enforcement orders. All orders of the board
3 and the commissioner shall be enforced by the Attorney
4 General. If any order of the board or the commissioner
5 is not complied with within the time period specified,
6 the board or the commissioner, respectively, shall
7 immediately notify the Attorney General of this fact.

8 Sec. 9. 38 MRSA §482, sub-§5, ¶G, as enacted by
9 PL 1985, c. 654, is amended to read:

10 G. Lots of ~~40~~ 500 or more acres shall not be
11 counted as lots; or

12 Sec. 10. Transition. This Act applies to any
13 division of land occurring after April 13, 1988.
14 Notwithstanding Title 1, section 302, this Act applies
15 to any application for subdivision approval submitted
16 after April 13, 1988.'

17 STATEMENT OF FACT

18 This amendment strengthens the powers of the
19 Commissioner of Environmental Protection to deal with
20 emergency situations that threaten public health,
21 safety and environment.

22 For purposes of review under the Site Location of
23 Development Law, municipal subdivision law and the
24 Maine Land Use Regulation Commission, the amendment
25 changes the size at which a lot will not be counted
26 for purposes of subdivision review from 40 to 500
27 acres.

28 The amendment eliminates the 40-acre exemption
29 from the municipal subdivision law and adds minor
30 procedural changes to improve the municipal
31 subdivision review process.

32 This amendment applies to divisions of land or
33 applications for subdivision approval filed after
34 April 13, 1988, the date of the committee decision on
35 this amendment.

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Reported by the Minority for the Committee on Energy
and Natural Resources. Reproduced and Distributed
Pursuant to Senate Rule 12.
(4/18/88)

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