

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2476

S.P. 938 In Senate, March 8, 1988
Approved for Introduction by a Majority of the Legislative
Council pursuant to Joint Rule 26.
Reference to the Committee on Energy and Natural Resources
suggested and ordered printed.
JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Representative HOGLUND of Portland, Senator
ANDREWS of Cumberland, Representative PRIEST of Brunswick.

STATE OF MAINE

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

AN ACT Concerning the Issuance of
Subdivision Permits.

1
2
3

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

6 Sec. 1. 12 MRSA §685-B, sub-§10 is enacted to
7 read:

8 10. Development or renewal. If development of

1 any subdivision approved by the commission under this
2 section is not completed within 5 years of the date of
3 the original application or within every 5 years
4 thereafter, the subdivision application must be
5 renewed pursuant to Title 38, section 490-A.

6 Sec. 2. 30 MRSA §4956, sub-§7 is enacted to
7 read:

8 7. Development or renewal. If development of any
9 subdivision approved by the municipal reviewing
10 authority under this section is not completed within 5
11 years of the date of the original application or
12 within every 5 years thereafter, the subdivision
13 application must be renewed pursuant to Title 38,
14 section 490-A.

15 Sec. 3. 38 MRSA §483, sub-§3 is enacted to read:

16 3. Development or renewal. If development of any
17 subdivision approved by the board or the commissioner
18 under this section, or the municipality under section
19 489, is not completed within 5 years of the date of
20 the original application or within every 5 years
21 thereafter, the subdivision application must be
22 renewed pursuant to section 490-A.

23 Sec. 4. 38 MRSA §490-A is enacted to read:

24 §490-A. Development of subdivision or renewal of
25 application every 5 years

26 1. Definitions. As used in this section, unless
27 the context otherwise indicates, the following terms
28 have the following meanings.

29 A. "Development" means, but is not limited to,
30 the carrying out of any significant building,
31 construction, earthmoving, grading, filling or
32 dredging on any subdivision, including a
33 development which may substantially affect the
34 environment as defined in section 482, subsection
35 2.

36 B. "Reviewing authority" means the Maine Land Use

1 Regulation Commission under Title 12, section
2 685-B; the municipal reviewing authority under
3 Title 30, section 4956; the Board of Environmental
4 Protection or Commissioner of Environmental
5 Protection under section 483; the municipality
6 under section 489; or any other board, agency or
7 office authorized to deny or grant approval to
8 subdivision proposals.

9 C. "Subdivision" means any subdivision as defined
10 in section 482, subsection 5; Title 12, section
11 682, subsection 2; or Title 30, section 4956,
12 subsection 1.

13 2. Development of subdivision within 5 years. If
14 development has not been completed on any subdivision
15 approved by a reviewing authority within 5 years of
16 the date of the granting of approval of that
17 subdivision or every 5 years thereafter, a renewal of
18 the subdivision application shall be made in
19 accordance with subsection 3.

20 3. Renewal. All requests for subdivision renewal
21 as required by subsection 2 shall be filed with the
22 appropriate reviewing authority that approved the
23 original subdivision proposal. The reviewing
24 authority shall issue an order denying or granting the
25 renewal application in the same manner as the original
26 application and shall consider the same guidelines and
27 criteria used in granting the original application, as
28 well as any new criteria adopted by the reviewing
29 authority within the 5-year period since the granting
30 of the original application or the last preceding
31 renewal. The burden of proof shall at all times be on
32 the persons seeking a renewal. In issuing its
33 decision, the reviewing authority shall make findings
34 of fact determining whether the original criteria and
35 any new criteria have been satisfied.

36 4. Judicial review. Any person aggrieved by a
37 decision of the reviewing authority shall be entitled
38 to judicial review in the Superior Court in the manner
39 provided in the Maine Administrative Procedure Act,
40 Title 5, chapter 375, subchapter VII.

1 5. Variances; recording in registry of deeds.
2 Whenever any renewal approval or any later amendment
3 of a subdivision under subsection 6 is based in part
4 on the granting of a variance from any of the original
5 or new applicable subdivision approval criteria, that
6 fact shall be expressly noted on the face of the
7 subdivision plat or plan to be recorded in the local
8 registry of deeds or, in the case of an amendment if
9 no amended plan is to be recorded, a certificate
10 indicating the name of the current property owner,
11 identifying the property owner, identifying the
12 property by reference to the last recorded deed in its
13 chain of title and indicating the fact that a
14 variance, including any conditions on the variance,
15 has been granted and the date of the granting, shall
16 be prepared in recordable form and shall be recorded
17 in the local registry of deeds within 30 days of the
18 subdivision renewal approval or the variance shall be
19 invalid. No rights may accrue to the variance
20 recipient or the recipient's heirs, successors or
21 assigns until the recording is made within the 30 days.

22 6. Revisions to subdivision plat or plan. Any
23 application for subdivision renewal approval which
24 constitutes a revision or amendment to the original or
25 renewed subdivision plan which has been previously
26 approved shall indicate that fact on the renewal
27 application and shall identify the original or renewed
28 subdivision plan being revised or amended. The
29 renewal application shall indicate any change in
30 circumstances between the time of filing of the
31 original or renewed and renewal applications. If a
32 subdivision plat or plan is presented for recording to
33 a register of deeds and that plat or plan is a
34 revision or amendment to an existing plat or plan, the
35 register shall indicate on the index for the original
36 plat or plan that it has been superseded by another
37 plat or plan and shall reference the book and page or
38 cabinet and sheet on which the new plat or plan is
39 recorded. In addition, the register shall ensure that
40 the book and page or cabinet and sheet on which the
41 original plat or plan is recorded is referenced on the
42 new plat or plan.

43 7. Failure to develop or renew; civil penalties.

1 Failure to develop an approved subdivision or file a
2 renewal application in accordance with this section
3 shall result in the revocation of any permit or other
4 approval granted for that subdivision plan. A
5 violation of this section shall result in the
6 imposition of civil penalties pursuant to Title 30,
7 section 4966.

8 8. Application. This section does not apply to
9 any subdivision approved prior to the effective date
10 of this section.

11 STATEMENT OF FACT

12 This bill provides that any person who obtains a
13 subdivision permit must either develop the subdivision
14 within 5 years of the date of the granting of the
15 permit or must file, before the same reviewing
16 authority that approved the original application, a
17 renewal application every 5 years until either
18 development is completed or the application is denied.

19 4256022288