

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2485

S.P. 941

In Senate, March 9, 1988

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator PERKINS of Hancock.

Cosponsored by Representative ANDERSON of Woodland.

STATE OF MAINE

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

AN ACT to Improve Comprehensive Land Use  
Planning and Land Use Ordinances to Manage  
Growth and Development.

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

Sec. 1. 5 MRSA §13075 is enacted to read:

§13075. Maine town planning program

1        The Director of the Office of Community  
2 Development shall administer a program to encourage  
3 comprehensive land use planning and implementation by  
4 municipalities and provide resources and technical  
5 assistance to municipalities undertaking that planning.

6        The program shall consist of elements which will  
7 enhance the capacity of the Office of Community  
8 Development, regional councils and municipalities to  
9 more effectively plan for growth and development, as  
10 well as manage existing and future growth pressures.

11        1. Statewide program elements. The office shall  
12 implement a program which provides statewide  
13 assistance.

14        A. The office shall provide information and data  
15 on comprehensive planning techniques, state  
16 policies and other information relevant to local  
17 comprehensive planning.

18        B. The office shall develop and maintain model  
19 comprehensive plans which address demographic,  
20 economic and natural resource conditions reflected  
21 in municipalities and provide these models to  
22 municipalities.

23        2. Regional capacity for local planning  
24 assistance. The office shall provide grants to  
25 regional councils to assist municipalities in  
26 preparing, updating and implementing local  
27 comprehensive land use plans. The assistance from  
28 regional councils shall include general planning  
29 technical assistance, data collection and data  
30 interpretation. The grants provided pursuant to this  
31 subsection shall be made from funds appropriated by  
32 the Legislature to carry out the purposes of this  
33 section.

34        3. Grants to municipalities for local planning  
35 activities. The office shall provide grants to  
36 municipalities to assist in preparing, updating and

1 implementing local comprehensive land use plans.  
2 Those grants shall be awarded based on factors  
3 including local need for resources, pace of  
4 development activities relative to planning resources  
5 and the level of local commitment as evidenced by any  
6 local match for the planning activities. The grants  
7 provided pursuant to this subsection shall be made  
8 from funds appropriated by the Legislature to carry  
9 out the purposes of this section.

10           Sec. 2. 30 MRSA §4956, sub-§1, as amended by PL  
11 1987, c. 514, §2, is further amended to read:

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

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

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

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

16 **Sec. 3. 30 MRSA §4956, sub-§2, ¶A, as repealed**  
17 **and replaced by PL 1973, c. 465, §1, is amended to**  
18 **read:**

19 A. All requests for subdivision approval shall be  
20 reviewed by the municipal planning board, agency  
21 or office, or if none, by the municipal officers,  
22 hereinafter called the municipal reviewing  
23 authority. The municipal reviewing authority to  
24 approve subdivision requests is contingent upon  
25 the adoption of a comprehensive plan pursuant to  
26 section 4961-A. The schedule for complying is as  
27 outlined for local land use ordinances in section  
28 4961-B, subsection 1. No request for subdivision  
29 approval may be granted in a municipality if it  
30 has not adopted a comprehensive plan in accordance  
31 with the compliance schedule.

32 **Sec. 4. 30 MRSA §4961, as amended by PL 1985,**  
33 **c. 794, Pt. A, §3, is repealed.**

34 **Sec. 5. 30 MRSA §§4961-A and 4961-B are enacted**  
35 **to read:**

36 §4961-A. Comprehensive Planning and Land Use Act of  
37 1988

1           1. Short title. This subchapter shall be known  
2 and may be cited as the Comprehensive Planning and  
3 Land Use Act of 1988.

4           2. Findings. The Legislature finds that the  
5 environment, economic well-being and quality of life  
6 of the State is threatened by the rapid pace of  
7 unplanned and unmanaged growth and development. The  
8 most effective land use planning can only occur at the  
9 local level of government and comprehensive plans  
10 developed and implemented at the local level are the  
11 key in planning for the future. The challenge to the  
12 State Government and local governments is to create a  
13 strong partnership to manage growth positively in a  
14 manner which protects the unique aspects of the  
15 State's environment and heritage, encourages  
16 appropriate uses of its natural resources and  
17 encourages and fosters continued economic expansion  
18 and commercial and industrial development to ensure  
19 prosperity for all people in all regions of the State.

20           3. Purposes. The Legislature declares that it is  
21 the purpose of this Act to encourage the development  
22 of comprehensive land use plans by municipalities  
23 which are consistent with the land use management  
24 goals and policies of the State; to ensure that local  
25 land use ordinances, tools and policies are based upon  
26 locally developed comprehensive plans that are  
27 prospective and inclusive of all matters determined by  
28 the Legislature to be in the best interests of the  
29 State; and to provide for continued state review of  
30 developments which occur in areas of statewide concern  
31 or directly impact natural resources of statewide  
32 significance.

33           4. Declaration of state land use management  
34 policies. The Legislature directs that state and  
35 local agencies with responsibility for regulating,  
36 planning, developing or managing the Maine landscape  
37 conduct these activities consistent with the following  
38 policies to:

39           A. Assimilate new development in a manner that  
40 conserves and protects the special character and

1 quality of life in Maine, its pristine  
2 environment, natural and cultural heritage and  
3 traditional life-styles and protects and promotes  
4 the public health, safety and welfare;

5 B. Promote an economic climate which maximizes  
6 quality job opportunities and the economic  
7 well-being of Maine citizens;

8 C. Plan for, finance and develop an efficient  
9 system of public facilities and services to  
10 accommodate anticipated growth and economic  
11 development;

12 D. Guide the pattern of development to ensure the  
13 efficient use of public services and facilities;

14 E. Assure the preservation of open space, and  
15 provide a range of opportunities for access to,  
16 and the enjoyment of, Maine's land, water and  
17 wildlife resources;

18 F. Protect outstanding natural areas of State  
19 significance, including, but not limited to, the  
20 habitats of endangered species;

21 G. Support the continuance, and maintain  
22 opportunities for the future expansion, of natural  
23 resource-based industries, such as farming,  
24 fishing and forestry in a manner which maintains  
25 the State's environmental quality;

26 H. Promote an array of housing opportunities and  
27 establish active strategies for the public and  
28 private sectors to increase the affordability and  
29 availability of housing for low and moderate  
30 income persons;

31 I. Encourage and facilitate citizen involvement  
32 in the development, administration and enforcement  
33 of land use planning and management activities at  
34 all levels of government; and

35 J. Assure predictable, timely and cost-effective  
36 land use decision making that is coordinated and  
37 consistent between State Government and local  
38 governments and that minimizes unnecessary  
39 duplication.

1           5. Definitions. As used in this subchapter,  
2 unless the context otherwise indicates, the following  
3 terms have the following meanings.

4           A. "Affordable housing" means those decent, safe  
5 and sanitary dwellings, apartments or other living  
6 accommodations for those making 80% of the median  
7 household income as determined by the Department  
8 of Economic and Community Development.

9           B. "Comprehensive plan" means a compilation of  
10 policy statements, goals, standards, maps and  
11 pertinent data relative to the past, present and  
12 future trends of the municipality with respect to  
13 its population, housing, economics, social  
14 patterns, land use, water resources and their  
15 uses, transportation facilities and public  
16 facilities. The plan shall consist of clearly  
17 written policies and goals and may consist of a  
18 series of subsidiary but interrelated plans such  
19 as, but not limited to, those components outlined  
20 in this subchapter.

21          C. "Contiguous" means having a common boundary.

22          D. "Functionally land-dependent uses" means those  
23 uses that require for their primary purposes  
24 locations on settings having certain soils,  
25 climates and other site-specific attributes to  
26 produce food, fiber and other natural products, or  
27 which require large expanses of suitable land,  
28 such as agricultural and forestry enterprises, and  
29 which cannot be located on other lands due to the  
30 absence of natural attributes required by the  
31 specific use. These uses include, but are not  
32 limited to, commercial forestry and agricultural  
33 enterprises, mineral and sand and gravel  
34 extraction.

35          E. "Functionally water-dependent uses" means  
36 those uses that require for their primary purpose  
37 location on submerged lands or direct access to,  
38 or location in, coastal waters and which therefore  
39 cannot be located away from these waters. These  
40 uses include, but are not limited to, commercial



1 and recreational fishing and boating facilities, fin  
2 fish and shell-fish processing, storage and retail and  
3 wholesale marketing facilities, dock and port  
4 facilities, shipyards and boatbuilding facilities,  
5 marinas, navigation aids, basins and channels,  
6 industrial uses dependent upon water-borne  
7 transportation or requiring large volumes of cooling  
8 or processing water that cannot reasonably be located  
9 or operated at an inland site and uses which primarily  
10 provide general public access to marine or tidal  
11 waters.

12 F. "Impact fee" means a fee assessed, as provided  
13 by this Act, against new development to generate  
14 revenue for public services necessitated by the  
15 new development.

16 G. "Land use or zoning ordinance" means any  
17 municipal ordinance regulating the use of land  
18 including an ordinance adopted pursuant to section  
19 4961-B.

20 H. "Legislative body" means the governing body of  
21 a municipality or a body holding a regular,  
22 special or other duly constituted meeting of a  
23 municipality.

24 I. "Local government" or "municipality" means any  
25 municipality as defined in section 1901.

26 J. "Local planning committee" means the group of  
27 individuals designated by the legislative body or  
28 municipal officers to prepare the comprehensive  
29 plan required by this Act. The committee may  
30 consist of the planning board, a subcommittee of  
31 the planning board, or of planning board members,  
32 zoning board members, conservation commission  
33 members, municipal officers, members of other  
34 local boards, commissions or organizations and  
35 local residents.

36 K. "Person" means an individual, corporation,  
37 governmental agency, local government, trust,  
38 estate, partnership, association, 2 or more  
39 persons having a joint or common interest or any  
40 other legal entity.

1 L. "Public notice" means public notice as  
2 required in Title 5, section 8053.

3 M. "Regional council" means a regional planning  
4 commission or a council of government established  
5 pursuant to this Title.

6 6. Components of a comprehensive plan. A  
7 comprehensive plan shall be consistent with the policy  
8 objectives set forth in the declaration of state land  
9 use management policies and shall take into account  
10 the development trends of the region. The  
11 comprehensive plan, being as much a process as a  
12 document capable of distribution, may, at successive  
13 stages, consist of data collected, preliminary plans,  
14 alternative action proposals and finally a  
15 comprehensive plan to be adopted.

16 A comprehensive plan must include at a minimum the  
17 following:

18 A. Provisions for growth and development for a  
19 variety of activities including, but not limited to,  
20 commercial and industrial development,  
21 water-dependent and land-dependent uses and  
22 residential development. The plan shall identify  
23 geographic areas, characteristics and criteria  
24 that are suitable for each type of development and  
25 sufficient in scope to accommodate an increase in  
26 each type of development activity specified in the  
27 plan;

28 B. Provisions that address the needs of  
29 affordable housing including, but not limited to,  
30 identifying and analyzing present and future  
31 affordable housing needs, identifying and  
32 analyzing local options for addressing those needs  
33 and recommending what options the community should  
34 implement. Affordable housing options include,  
35 but are not limited to, government-assisted  
36 housing, housing for low and moderate-income  
37 families, manufactured housing, multi-family  
38 housing and group and foster care facilities.  
39 Local provisions for affordable housing include,

1 but are not limited to, cluster zoning, reduced  
2 minimum lot and frontage sizes and increased  
3 densities. A comprehensive plan shall provide  
4 regardless of local needs, that 10% of new  
5 residential development could meet the affordable  
6 housing price criteria;

7 C. The identification of significant natural  
8 resources, including freshwater, coastal and  
9 saltwater wetlands, estuarine marshes, flood  
10 plains, beaches, rivers, bays, lakes, ponds and  
11 shorelines, aquifers and water recharge areas,  
12 wildlife and other natural and environmental  
13 resources; appropriate and inappropriate land  
14 uses; and the necessary management strategies to  
15 ensure the long-term protection of these resources;

16 D. The identification of existing recreation,  
17 park, and open space areas within a municipality;  
18 provision for the ongoing protection and  
19 maintenance of these areas; an assessment of the  
20 adequacy of existing facilities and areas; and,  
21 when insufficiencies are found in existing  
22 facilities and areas, a long-term strategy for  
23 improvement and expansion;

24 E. A transportation plan consisting of the types,  
25 locations and extent of existing and proposed  
26 major thoroughfares and secondary routes,  
27 including bicycle and pedestrian ways and parking  
28 needs. The plan shall also consider as a separate  
29 element, when appropriate, provisions for port,  
30 rail, aviation, mass transit and other  
31 transportation facilities. All proposed additions  
32 to the transportation or transportation-related  
33 infrastructure of a municipality shall be  
34 consistent with its provisions for growth and  
35 development as specified in paragraph A;

36 F. A capital plan and budget which shall contain  
37 the following elements:

38 (1) An assessment of the current state of  
39 all public facilities, such as, but not  
40 limited to, roads, sewers, schools, parks and  
41 open space, fire and police;

1                   (2) A plan for the replacement and expansion  
2 of existing public facilities or the  
3 construction of such new facilities as are  
4 required to meet the growth and development  
5 plans set forth in paragraph A. This plan  
6 shall anticipate when and where those  
7 facilities will be required;

8                   (3) An assessment of the anticipated costs  
9 for replacement, expansion or construction of  
10 public facilities, an identification of  
11 revenue sources available to meet these costs  
12 and recommendations for meeting costs  
13 required to implement the plan; and

14                   (4) Subsequent capital plans and budgets  
15 updated biennially;

16                   G. A provision for coordinating land uses with  
17 contiguous municipalities, including the  
18 management of resources and facilities that extend  
19 beyond municipal boundaries such as rivers,  
20 aquifers, transportation and others. This  
21 provision shall present options and  
22 recommendations for coordinated management and  
23 protection of those resources and facilities with  
24 contiguous municipal governments and the  
25 appropriate regional council; and

26                   H. For those municipalities in the coastal area,  
27 provisions that address all of the coastal  
28 management policies cited in Title 38, section  
29 1801.

30                   Nothing in this subsection may be construed to limit  
31 the ability of municipalities to include other  
32 elements, such as historic preservation, public  
33 access, water and land-dependent uses or other local  
34 plans.

35                   7. Implementation strategy. A comprehensive plan  
36 shall include an implementation strategy consisting of  
37 recommendations for plan execution, including, but not

1 limited to, land use ordinances, affordable housing  
2 strategies, public facilities investment, land  
3 acquisition and the protection of significant natural  
4 resources.

5 A comprehensive plan may include planning techniques  
6 such as, but not limited to, planned unit development,  
7 site plan approval, open space zoning, clustered  
8 development, conditional zoning, contract zoning,  
9 transferrable development rights, zoning to protect  
10 access to direct sunlight for solar energy use and  
11 zoning to protect access to significant natural  
12 resources.

13 8. Monitoring and revision. A comprehensive plan  
14 shall identify mechanisms to ensure that all growth  
15 and development is monitored, that the plan is  
16 periodically reviewed and that revisions to the plan  
17 occur in a timely manner. At a minimum, a  
18 comprehensive plan shall be updated every 5 years.

19 9. Preparation of comprehensive plan. The  
20 legislative body or the municipal officers shall  
21 designate and establish a comprehensive planning  
22 committee.

23 A. The comprehensive planning committee shall  
24 have the general responsibility for the conduct of  
25 the comprehensive planning program, including:

26 (1) Preparation of the comprehensive plan  
27 and recommendations to the legislative body  
28 regarding the adoption of that plan, or  
29 amendment of any portion thereof;

30 (2) Public hearings for the purpose of  
31 soliciting citizen input into the  
32 comprehensive planning process; and

33 (3) Review of existing land use ordinances,  
34 public facilities investments, land  
35 acquisition and strategies to protect  
36 significant natural resources, or amendments

1 thereto, for consistency with the proposed  
2 comprehensive plan and recommendations for their  
3 revision.

4 B. In order to encourage citizen participation in  
5 the comprehensive planning and land use process,  
6 local planning agencies and local governments are  
7 directed to adopt comprehensive plans and land use  
8 ordinances pursuant to the rule-making procedures  
9 set out in Title 5, chapter 375, subchapter II,  
10 with respect to notice and hearing. The intent  
11 shall be to provide for broad dissemination of  
12 proposals and alternatives, opportunity for  
13 written comments, open discussions, information  
14 services and consideration and response to public  
15 comments.

16 C. A comprehensive plan shall be considered to be  
17 adopted when approved and accepted by the  
18 legislative body of the municipality. It is the  
19 intent of this Act that the adoption and  
20 enforcement of land use ordinances shall be based  
21 on, be consistent with and be a means of  
22 implementing an adopted comprehensive plan as  
23 required by this section.

24 D. State agencies responsible for administering  
25 grant and direct or indirect financial assistance  
26 programs to municipalities designed to accommodate  
27 or encourage additional growth and development; to  
28 improve, expand or construct public facilities; to  
29 acquire land for conservation, recreation or  
30 resource protection or to assist in planning or  
31 managing for specific economic and natural  
32 resource concerns shall allocate funds only to  
33 municipalities with an adopted comprehensive plan  
34 and implementation program which includes  
35 statements of policy or program guidelines  
36 directly related to the purposes for which the  
37 grant or financial assistance is provided. The  
38 content of the plan, policies and guidelines shall  
39 be considered by state agencies in awarding  
40 financial assistance to municipalities.

1 §4961-B. Local land use and zoning ordinances

2 1. Local land use and zoning ordinances. All  
3 local land use and zoning ordinances enacted or  
4 amended shall be consistent with the adopted  
5 comprehensive plan, or its components, and any land  
6 use ordinances existing at the time of adoption which  
7 are not consistent with the comprehensive plan shall  
8 be amended to be consistent, according to the  
9 following schedule:

10 A. Municipalities with total populations of 500  
11 or more, which have experienced population growth  
12 of 15% or more since 1980, based on population  
13 estimates provided by the State Planning Office,  
14 by December 31, 1989;

15 B. Municipalities with total populations of 500  
16 or more, which have experienced population growth  
17 of more than 7.5%, but less than 15% since 1980,  
18 based on population estimates provided by the  
19 State Planning Office, by December 31, 1990; and

20 C. All other municipalities, by January 1, 1992.

21 2. Zoning requirements. In the preparation of a  
22 zoning ordinance, the public shall be given an  
23 adequate opportunity to be heard. Any zoning  
24 ordinance, adopted pursuant to the home rule power  
25 granted to all municipalities under the Constitution  
26 of Maine, Article VIII, Part Second, and chapter  
27 201-A, section 1917, shall be subject to the following.

28 A. A zoning map describing each zone established  
29 or modified shall be adopted as part of the zoning  
30 ordinance or incorporated in the ordinance. Any  
31 conflict between the zoning map and a description  
32 by metes and bounds shall be resolved in favor of  
33 the description by metes and bounds.

34 B. Real estate used or to be used by a public  
35 service corporation shall be wholly or partially  
36 exempted from an ordinance only when on petition,  
37 notice and public hearing, the Public Utilities  
38 Commission has determined that that exemption is  
39 reasonably necessary for the public welfare and  
40 convenience.

1 C. County and municipal governments and districts  
2 shall be governed by the provisions of any zoning  
3 ordinance.

4 D. Any zoning ordinance shall be advisory with  
5 respect to the State.

6 E. Any property or use existing in violation of  
7 any zoning ordinance is deemed to be a nuisance.

8 F. Any zoning ordinance may provide that when a  
9 person petitions for rezoning of an area for the  
10 purpose of development in accordance with an  
11 architect's plan, the area shall not be rezoned  
12 unless the petitioner posts a performance bond  
13 equal to at least 25% of the estimated cost of the  
14 development. The bond shall become payable to the  
15 municipality if the petitioner fails to begin  
16 construction in a substantial manner and in  
17 accordance with the plan within one year of the  
18 effective date of the rezoning.

19 G. For the purpose of this subchapter, "zoning"  
20 is defined as the division of a municipality into  
21 districts and the prescription and reasonable  
22 application of different regulations in each  
23 district.

24 H. Any zoning ordinance may include provisions  
25 for conditional or contract zoning. For the  
26 purposes of this subchapter, "conditional zoning"  
27 means the process by which the municipal  
28 legislative body may rezone property to permit the  
29 use of that property subject to conditions not  
30 generally applicable to other properties similarly  
31 zoned. "Contract zoning" means the process by  
32 which the property owner, in consideration of the  
33 rezoning of that property, agrees to the  
34 imposition of certain conditions or restrictions  
35 not imposed on other similarly zoned properties.  
36 All rezoning under this paragraph shall:

37 (1) Be consistent with the municipal  
38 comprehensive plan;



1                   (2) Establish rezoned areas which are  
2                   consistent with the existing and permitted  
3                   uses within the original zones; and

4                   (3) Only include conditions and restrictions  
5                   which relate to the physical development or  
6                   operation of the property.

7                   The municipal reviewing authority, as defined in  
8                   section 4956, subsection 2, shall conduct a public  
9                   hearing prior to any property being rezoned under this  
10                   paragraph. Notice of this hearing shall be posted in  
11                   the municipal office at least 14 days prior to the  
12                   public hearing and published in a newspaper of general  
13                   circulation within the municipality at least 2 times,  
14                   the date of the first publication to be at least 7  
15                   days prior to the hearing. Notice shall also be sent  
16                   to the owners of all property abutting the property to  
17                   be rezoned at their last known addresses. This notice  
18                   shall contain a copy of the proposed conditions and  
19                   restrictions with a map indicating the property to be  
20                   rezoned.

21                   3. Assessment of impact fees. Only local  
22                   governments which have an adopted comprehensive plan,  
23                   which includes a capital plan and budget, and land use  
24                   ordinances which implement the plan may, in  
25                   furtherance of their comprehensive plans and upon the  
26                   adoption of a written ordinance and impact fee  
27                   schedule, assess impact fees.

28                   Sec. 6. 36 MRSA c. 712-A is enacted to read:

29                   CHAPTER 712-A

30                   LOCAL OPTION REAL ESTATE TRANSFER TAX

31                   §4661. Local option real estate transfer tax

32                   A municipality adopting a municipal land bank  
33                   pursuant to this chapter may impose a real estate  
34                   transfer tax on the transferor and transferee of real  
35                   estate according to the following procedures and  
36                   limitations.

1           1. Comprehensive plan. The municipality has  
2 adopted a comprehensive plan pursuant to Title 30,  
3 section 4961-A.

4           2. Referendum. A local real estate transfer tax  
5 may be imposed by a municipality if it is approved by  
6 a referendum conducted according to the provisions of  
7 Title 30, section 2061.

8           3. Rate of tax. The referendum question shall  
9 specify the rate of the tax which may not exceed 0.4%  
10 of the taxable base of the property subject to the tax.

11           4. Taxable base. The base to which the tax is  
12 applied is the amount subject to tax under chapter  
13 711-A less \$77,000 if the property subject to the tax  
14 is the primary residence of the transferee. Transfers  
15 which are exempt from the tax under chapter 711-A are  
16 also exempt from the tax authorized by this chapter.

17           5. Liability. The transferor of property is  
18 liable for 1/2 of the tax. The transferee is liable  
19 for the remaining 1/2 of the tax.

20           6. Notification. Each municipality adopting a  
21 local real estate transfer tax under this chapter  
22 shall notify the register of deeds of the county in  
23 which the municipality is located and the State Tax  
24 Assessor at least 60 days prior to the effective date  
25 of the tax.

26           7. Collection. The tax shall be collected by the  
27 register of deeds at the same time as the tax imposed  
28 under chapter 711-A. The registrar shall pay to each  
29 municipality imposing a tax under this chapter the  
30 amount attributable to that municipality. Payments  
31 shall be made at the same time as payments of the  
32 state real estate transfer tax to the State Tax  
33 Assessor.

34           8. Use of revenues. All revenues received by a  
35 municipality from the tax authorized by this chapter  
36 shall be deposited in a municipal land bank account  
37 and may be used only for the purposes permitted under  
38 this chapter.

1        9. Failure to pay the tax. Failure to pay the  
2 tax provided by this chapter results in a penalty, in  
3 addition to the tax, equal to the amount of the tax  
4 and interest at the rate determined pursuant to  
5 section 186. Penalties and interest due under this  
6 chapter shall be paid to the municipality in which the  
7 tax is due. Penalties and interest may be recovered  
8 by the municipality in a civil suit.

9        §4662. Municipal land bank

10        A municipality imposing a local real estate  
11 transfer tax shall establish a municipal land bank.

12        1. Referendum. The municipal land bank must be  
13 approved by referendum according to the provisions of  
14 Title 30, section 2061. It may be approved as part of  
15 the referendum adopting a local real estate transfer  
16 tax or as a separate measure.

17        2. Administration. The referendum shall provide  
18 that the municipal land bank be administered by a  
19 commission and shall specify number, qualifications,  
20 terms of office and powers and duties of commission  
21 members.

22        3. Limitations. Funds in a municipal land bank  
23 are restricted to the following uses:

24        A. Acquisition or management of interests in land  
25 within the municipality for the purposes of:

26                (1) Preserving it in an undeveloped state;

27                (2) Conserving natural or scenic resources  
28 or preserving wildlife habitats; or

29                (3) Maintaining or improving recreational  
30 opportunities within the municipality; or

31        B. Any other purposes which are incidental to the  
32 purposes permitted by this section, including  
33 administrative costs and the costs of employing  
34 staff, but not including costs of maintaining or  
35 improving land.

1 STATEMENT OF FACT

2 The purpose of this bill is to improve local  
3 planning and land use management capabilities by  
4 establishing clear guidelines and ordinances. These  
5 include state policy objectives to guide the  
6 preparation and content of local comprehensive plans,  
7 elements that must be included as part of the  
8 comprehensive plans and the planning process, the  
9 implementation and revision of the plans, and required  
10 consistency between the comprehensive plans and land  
11 use ordinances.

12 The bill establishes a local option real estate  
13 transfer tax to fund local land banks.

14 The bill also establishes the Maine town planning  
15 program to be administered by the Department of  
16 Economic and Community Development.

17 Section-by-Section Analysis

18 Section 1 establishes the Maine town planning  
19 program which will provide technical assistance and  
20 resources to municipalities engaged in the  
21 comprehensive land use planning process. Program  
22 elements include the enhancement of state technical  
23 assistance resources, the expansion of technical  
24 assistance by regional councils to assist  
25 municipalities and direct grants to municipalities to  
26 assist in planning and plan implementation.

27 Section 2 amends the municipal subdivision law to  
28 eliminate the 40-acre exemption and to require the  
29 adoption of a local comprehensive plan in order to  
30 approve municipal subdivision requests.

31 Section 3 amends the Maine Revised Statutes, Title  
32 30, section 4956 to require the adoption of a local  
33 comprehensive plan in order to adopt certain land use  
34 ordinances. It also requires consistency between the  
35 comprehensive plan and land use and zoning ordinances.

1 Section 4 establishes the Comprehensive Planning  
2 and Land Use Management Act. This section contains  
3 the legislative findings, the statement of purpose,  
4 the state policies, the components of a local  
5 comprehensive plan and local land use ordinances. The  
6 policy objectives address quality of life; economic  
7 development; infrastructure; development patterns;  
8 open space, access and recreation; natural areas  
9 protection; land and resource productivity; affordable  
10 housing; citizen involvement and land use regulation.

11 Section 4961-A includes the components of a  
12 comprehensive plan and provisions for its  
13 preparation. Required components are provisions for  
14 growth and development; affordable housing; protection  
15 of significant natural resources; recreation, parks  
16 and open space; transportation; capital improvements  
17 planning; regional coordination; and coastal  
18 management, if applicable. The planning process must  
19 allow for broad citizen participation and plans must  
20 be updated every 5 years. State grant and financial  
21 assistance programs will be allocated contingent upon  
22 the adoption of a local comprehensive plan and state  
23 agencies responsible for administering grant and  
24 financial assistance programs to municipalities will  
25 consider the local comprehensive plan in awarding  
26 financial assistance.

27 Section 4961-B requires that local land use  
28 ordinances be consistent with the local comprehensive  
29 plan, and sets out the procedure for townwide zoning.  
30 This section also includes a 5-year schedule for local  
31 compliance with the new planning criteria based on  
32 local growth rates.

33 Section 5 establishes a local option real estate  
34 transfer tax that may be imposed by a municipality if  
35 decided through referendum. The tax is dedicated to  
36 fund a municipal land bank for the purposes of  
37 acquiring or managing recreational land or open space  
38 within the municipality.

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