

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 454

H.P. 335

House of Representatives, February 27, 1989

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

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative DEXTER of Kingfield.

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STATE OF MAINE

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

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An Act to Protect Freshwater Wetlands.

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

3             **Sec. 1. 12 MRSA §682, sub-§2,** as amended by PL 1987, c. 885,  
5     §1, is further amended to read:

7             **2. Subdivision.** "Subdivision" means a division of an  
9     existing parcel of land into 3 or more parcels or lots within any  
11    5-year period, whether this division is accomplished by platting  
13    of the land for immediate or future sale, or by sale of the land  
15    by metes and bounds or by leasing.

17            The term "subdivision" shall also include the division of a new  
19    structure or structures on a tract or parcel of land into 3 or  
21    more dwelling units within a 5-year period and the division of an  
23    existing structure or structures previously used for commercial  
25    or industrial use into 3 or more dwelling units within a 5-year  
27    period. The area included in the expansion of an existing  
29    structure is deemed to be a new structure for the purposes of  
31    this paragraph.

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

37            The creation of a lot or parcel of at least 40 but not more than  
39    500 acres in size shall not be counted as a lot for the purpose  
41    of this subsection except when the lot or the parcel from which  
43    it was divided is located wholly or partly within the shoreland  
45    area as defined in Title 38, section 435 and except as provided  
47    in paragraph A. If a lot or parcel from which it was divided  
49    lies within the shoreland area but that area surrounds only  
51    freshwater wetlands as mapped by the commission, and any deed  
   creating a lot containing shoreland area surrounding freshwater  
   wetlands prohibits development activities and timber harvesting  
   within 250 feet of each mapped freshwater wetland, that lot or  
   parcel shall not be considered a lot. A copy of any deed for a  
   lot or parcel exempted under this provision shall be forwarded by  
   the original landowner to the commission within 30 days of its  
   creation.

   A. When 3 or more lots containing at least 40 but not more  
   than 500 acres are created within a 5-year period from a  
   parcel which is located wholly outside the shoreland area as  
   defined in Title 38, section 435, a plan showing the  
   division of the original parcel must be filed by the person  
   creating the 3rd lot with the registry of deeds, the  
   commission and the State Tax Assessor within 60 days of the  
   creation of that lot. Any subsequent division of a lot  
   created from the original parcel within 10 years of the  
   filing of the plan in the registry of deeds shall be  
   considered a subdivision. Failure to file the plan required  
   by this paragraph is a violation of this chapter subject to  
   the penalties provided in section 685-C, subsection 8.

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B. The commission shall submit a report by March 15th, annually, to the joint standing committee of the Legislature having jurisdiction over energy and natural resources. The report shall indicate the number and location of lots for which a plan was filed under paragraph A and the number and location of subsequent divisions requiring review by the commission.

**Sec. 2. 38 MRSA §482, sub-§5, ¶C,** as repealed and replaced by PL 1987, c. 812, §§7 and 18, is amended to read:

C. Lots of 40 or more acres but not more than 500 acres shall not be counted as lots except where:

(1) The proposed subdivision is located wholly or partly within the shoreland area as defined in Title 38, section 435, unless:

(a) The shoreland area contains only land surrounding freshwater wetlands mapped pursuant to section 480-I;

(b) Any deed creating a lot containing or within 250 feet of a mapped freshwater wetland prohibits all development activities and timber harvesting within the shoreland area of that freshwater wetland; and

(c) A copy of the deed containing the restrictions is forwarded by the original landowner to the department within 30 days of the creation of a lot;

**STATEMENT OF FACT**

This bill proposes to exempt from review under the site location of development laws and land use regulation laws divisions of land at least 40 acres in size when the only shoreland area present in the parcel or lot from which the division is proposed surrounds a mapped freshwater wetland. The bill requires restrictive covenants placed in the deeds of all lots to prohibit all development activities and timber harvesting within 250 feet of the mapped freshwater wetland for the exemptions to be in effect. The subdivider is required to forward a copy of the deed to the state reviewing agency.