

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1199

H.P. 859

House of Representatives, April 18, 1989

Reported by Representative JOSEPH from the Committee on State and Local Government pursuant to H.P. 738 and printed under Joint Rule 2.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

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

An Act to Correct Errors in the County and Municipal Law
Recodification.

(EMERGENCY)



1		<u>1988</u>	<u>1989</u>
3	<u>(a) Chairman</u>		<u>\$2,000</u>
5	<u>(b) Members</u>		<u>2,000</u>
7	<u>(2) Treasurer</u>	<u>\$7,207</u>	<u>8,000</u>
9	<u>(3) Sheriff</u>	<u>19,604</u>	<u>20,800</u>
11	<u>(4) Judge of Probate</u>	<u>10,210</u>	<u>10,210</u>
13	<u>(5) Register of Probate</u>	<u>14,560</u>	<u>16,560</u>
15	<u>(6) Register of Deeds</u>		
17	<u>(a) Northern District</u>	<u>14,280</u>	<u>16,280</u>
19	<u>(b) Southern District</u>	<u>14,280</u>	<u>16,280</u>
21	<u>C. Franklin County:</u>		<u>1988</u>
23	<u>(1) Commissioners</u>		
25	<u>(a) Chairman</u>		<u>\$ 4,665</u>
27	<u>(b) Members</u>		<u>4,424</u>
29	<u>(2) Treasurer</u>		<u>4,828</u>
31	<u>(3) Sheriff</u>		<u>24,245</u>
33	<u>(4) Judge of Probate</u>		<u>11,130</u>
35	<u>(5) Register of Probate</u>		<u>15,900</u>
37	<u>(6) Register of Deeds</u>		<u>16,960</u>
39	<u>D. Hancock County:</u>		<u>1988</u>
41	<u>(1) Commissioners</u>		
43	<u>(a) Chairman</u>		<u>\$ 6,870</u>
45	<u>(b) Members</u>		<u>6,411</u>
47	<u>(2) Treasurer</u>		<u>15,277</u>
49	<u>(3) Sheriff</u>		<u>26,500</u>
51	<u>(4) Judge of Probate</u>		<u>13,633</u>

1					
3	(5)	<u>Register of Probate</u>			<u>14,167</u>
5	(6)	<u>Register of Deeds</u>			<u>15,277</u>
7	<u>E. Kennebec County:</u>				<u>1988</u>
9	(1)	<u>Commissioners</u>			
11	(a)	<u>Chairman</u>			<u>\$ 6,396</u>
13	(b)	<u>Members</u>			<u>6,004</u>
15	(2)	<u>Treasurer</u>			<u>8,485</u>
17	(3)	<u>Sheriff</u>			<u>24,571</u>
19	(4)	<u>Judge of Probate</u>			<u>14,617</u>
21	(5)	<u>Register of Probate</u>			<u>18,741</u>
23	(6)	<u>Register of Deeds</u>			<u>18,741</u>
25	<u>F. Knox County:</u>				
27	(1)	<u>Commissioners</u>			
29			<u>1988</u>	<u>1989</u>	<u>1990</u>
31	(a)	<u>District 1</u>	<u>\$3,611</u>	<u>\$4,000</u>	<u>\$4,000</u>
33	(b)	<u>District 2</u>	<u>3,439</u>	<u>4,000</u>	<u>4,000</u>
35	(c)	<u>District 3</u>	<u>3,439</u>	<u>4,000</u>	<u>4,000</u>
37	(d)	<u>Chairman</u>	<u>300</u>	<u>300</u>	<u>300</u>
		<u>differential</u>			
39	(2)	<u>Treasurer</u>	<u>6,000</u>	<u>6,000</u>	<u>6,000</u>
41	(3)	<u>Sheriff</u>	<u>25,000</u>		
43	(4)	<u>Judge of Probate</u>	<u>11,000</u>	<u>12,000</u>	<u>12,000</u>
45	(5)	<u>Register of</u>			
47		<u>Probate</u>	<u>14,500</u>		
49	(6)	<u>Register of</u>			
		<u>Deeds</u>	<u>16,200</u>		
51	<u>G. Lincoln County:</u>				<u>1988</u>

1	<u>(1) Commissioners</u>	
3	<u>(a) Chairman</u>	<u>\$ 5,542</u>
5	<u>(b) Members</u>	<u>4,765</u>
7	<u>(2) Treasurer</u>	<u>5,185</u>
9	<u>(3) Sheriff</u>	<u>25,232</u>
11	<u>(4) Judge of Probate</u>	<u>12,503</u>
13	<u>(5) Register of Probate</u>	<u>15,000</u>
15	<u>(6) Register of Deeds</u>	<u>19,128</u>
17	<u>H. Oxford County:</u>	<u>1988</u>
19	<u>(1) Commissioners</u>	
21	<u>(a) Chairman</u>	<u>\$ 5,358</u>
23	<u>(b) Members</u>	<u>4,882</u>
25	<u>(2) Treasurer</u>	<u>6,453</u>
27	<u>(3) Sheriff</u>	<u>25,074</u>
29	<u>(4) Judge of Probate</u>	<u>13,451</u>
31	<u>(5) Register of Probate</u>	<u>15,413</u>
33	<u>(6) Register of Deeds</u>	
35	<u>(a) Eastern District</u>	<u>15,845</u>
37	<u>(b) Western District</u>	<u>12,600</u>
39	<u>I. Penobscot County:</u>	<u>1988</u>
41	<u>(1) Commissioners</u>	
43	<u>(a) Chairman</u>	<u>\$ 7,384</u>
45	<u>(b) Members</u>	<u>7,072</u>
47	<u>(2) Treasurer</u>	<u>2,912</u>
49	<u>(3) Sheriff</u>	<u>25,012</u>
51	<u>(4) Judge of Probate</u>	<u>19,188</u>

1	<u>(5) Register of Probate</u>	<u>18,512</u>
3	<u>(6) Register of Deeds</u>	<u>18,512</u>
5	<u>J. Piscataquis County:</u>	<u>1988</u>
7	<u>(1) Commissioners</u>	
9	<u>(a) Chairman</u>	<u>\$ 5,400</u>
11	<u>(b) Members</u>	<u>4,600</u>
13	<u>(2) Treasurer</u>	<u>5,500</u>
15	<u>(3) Sheriff</u>	<u>20,800</u>
17	<u>(4) Judge of Probate</u>	<u>12,168</u>
19	<u>(5) Register of Probate</u>	<u>13,988</u>
21	<u>(6) Register of Deeds</u>	<u>14,456</u>
23	<u>K. Sagadahoc County:</u>	<u>1988</u>
25	<u>(1) Commissioners</u>	
27	<u>(a) Chairman</u>	<u>\$ 4,285</u>
29	<u>(b) Members</u>	<u>3,749</u>
31	<u>(2) Treasurer</u>	<u>7,298</u>
33	<u>(3) Sheriff</u>	<u>21,000</u>
35	<u>(4) Judge of Probate</u>	<u>13,446</u>
37	<u>(5) Register of Probate</u>	<u>14,690</u>
39	<u>(6) Register of Deeds</u>	<u>15,676</u>
41	<u>L. Somerset County:</u>	<u>1988</u>
43	<u>(1) Commissioners</u>	
45	<u>(a) Chairman</u>	<u>\$ 4,511</u>
47	<u>(b) Members</u>	<u>3,865</u>
49	<u>(2) Treasurer</u>	<u>9,293</u>
51	<u>(3) Sheriff</u>	<u>26,670</u>

1	(4) <u>Judge of Probate</u>	15,022
3	(5) <u>Register of Probate</u>	15,843
5	(6) <u>Register of Deeds</u>	16,275
7	<u>M. Washington County:</u>	1988
9	(1) <u>Commissioners</u>	
11	(a) <u>Chairman</u>	\$ 4,872
13	(b) <u>Members</u>	4,061
15	(2) <u>Treasurer</u>	18,000
17	(3) <u>Sheriff</u>	27,000
19	(4) <u>Judge of Probate</u>	14,526
21	(5) <u>Register of Probate</u>	15,010
23	(6) <u>Register of Deeds</u>	15,010
25	<u>N. York County:</u>	1988
27	(1) <u>Commissioners</u>	
29	(a) <u>Chairman</u>	\$4,500
31	(b) <u>Members</u>	4,500
33	(2) <u>Treasurer</u>	5,200
35	(3) <u>Sheriff</u>	28,000
37	(4) <u>Judge of Probate</u>	12,500
39	(5) <u>Register of Probate</u>	20,000
41	(6) <u>Register of Deeds</u>	20,000

43 **Sec. 2. 30-A MRSA §82, sub-§4**, as enacted by PL 1987, c. 737,
 44 Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
 45 9, is repealed and the following enacted in its place:

47 4. County commissioners' compensation. Except as provided
 48 in paragraphs A and B, and notwithstanding any other provision of
 49 law, if the county commissioners hire a full-time county
 50 administrator, they shall forego the annual salary otherwise due
 51 them and shall receive only \$75 each for each meeting attended

1 and reimbursement for travel at the same rate established for
2 state employees.

3
4 A. During 1989, if Aroostook County employs a full-time
5 county administrator, the county commissioners may receive
6 up to \$100 for each meeting attended for up to 52 meetings
7 in the fiscal year. They shall receive no compensation for
8 any meetings in excess of 52. The county commissioners
9 shall also receive the salary specified in section 2, in
10 addition to the per meeting compensation, regardless of
11 whether the county has a full-time county administrator.

12
13 B. The county commissioners of York County shall receive
14 the salary specified in section 2, regardless of whether
15 that county has a full-time county administrator.

16
17 **Sec. 3. 30-A MRSA §102, first ¶**, as enacted by PL 1987, c. 737,
18 Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
19 9, is further amended to read:

20
21 The county commissioners have final authority over the
22 operation of all county offices by elected or appointed county
23 ~~officers~~ officials, except in circumstances for which a County
24 Personnel Board has been established under subchapter VII,
25 article 2 with the powers and duties set forth in that article
26 and in section 501. The county commissioners must act as a board
27 and not on an individual basis in exercising this authority.

28
29 **Sec. 4. 30-A MRSA §121, sub-§4**, as enacted by PL 1987, c. 737,
30 Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
31 9, is further amended to read:

32
33 **4. Parking areas.** The county commissioners may lay out
34 parking areas on county lands near county buildings and may enact
35 ordinances for the reasonable use of those areas and enforce them
36 by suitable penalties ~~for the reasonable use of those areas~~. Any
37 violation of these ordinances is a traffic infraction.

38
39 County public parking areas are subject to any applicable
40 requirements of the Maine Human Rights Act, Title 5, chapter 337,
41 subchapter V.

42
43 **Sec. 5. 30-A MRSA §201**, as enacted by PL 1987, c. 737, Pt. A,
44 §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is
45 further amended to read:

46
47 **§201. Clerical help**

48
49 In all county offices, there shall be allowed for clerk hire
50 the amount authorized by the county commissioners. The county
51 commissioners shall determine the salary of all clerks after
receiving a recommendation from the county ~~officer~~ official under

1 whom the clerk is employed. The county treasurer shall pay
2 weekly to the clerks employed by the county the wages to which
3 they are entitled. The county commissioners shall certify the
4 names of the clerks to the county treasurer. The county
5 commissioners may provide for a county pay scale, vacations and
6 sick leave for clerical help.

7
8 **Sec. 6. 30-A MRSA §271**, as enacted by PL 1987, c. 737, Pt. A,
9 §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is
10 further amended to read:

11 **§271. Appointment of temporary substitutes**

12
13 When the district attorney does not attend a criminal
14 session or the office is vacant, the court may appoint an
15 attorney to perform duties during the session and allow a
16 reasonable compensation to be paid from the county treasury, in
17 the county where the appointment is made. The justice court
18 shall notify the Attorney General who shall deduct that amount
19 from the district attorney's salary and forward it to the county
20 treasurer.

21
22 **Sec. 7. 30-A MRSA §272, sub-§6**, as enacted by PL 1987, c. 737,
23 Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
24 9, is further amended to read:

25
26 **6. Allowance for compensation.** For the compensation of
27 assistant district attorneys, the district attorneys shall be
28 allowed annually sums up to the limit of \$40,000 plus ~~68¢~~ 69¢ for
29 each person constituting the population of the district according
30 to the latest formal population estimate of the Office of Vital
31 Statistics of the Department of Human Services ~~until June 30,~~
32 ~~1988 and \$40,000 plus 69¢ for each such person thereafter.~~ In
33 addition to the sums allowed in this section, funds shall be
34 provided for fringe benefits for which other state employees,
35 including confidential employees, are eligible.

36
37 **Sec. 8. 30-A MRSA §353**, as enacted by PL 1987, c. 737, Pt. A,
38 §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is
39 further amended to read:

40 **§353. Officer not to act as attorney or draw papers; employee of**
41 **jailer not to act as judge or attorney**

42
43 No officer may appear before any court as attorney or
44 adviser of any party in an action or draw any writ, complaint,
45 declaration, citation, process or plea for any other person; all
46 such acts are void. No person employed by the keeper of a jail
47 in any capacity may exercise any power or duty of a magistrate
48 judicial officer or notary public or act as attorney for any
49 person confined in the jail; all such acts are void.
50
51

1 **Sec. 9. 30-A MRSA §355, sub-§2**, as enacted by PL 1987, c. 737,
Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
3 9, is further amended to read:

5 2. **Full-time deputies.** No full-time deputy may hold the
municipal office of selectman, city ~~councilman~~ councillor or
7 budget ~~committeeman~~ committee member or any county or state
office.

9 **Sec. 10. 30-A MRSA §453-A** is enacted to read:

11 §453-A. Public safety answering point

13 Each county, in cooperation with the Department of Public
15 Safety, shall establish an E-9-1-1 public safety answering point
17 in each county which may be located in a county communications
19 center or the county sheriff's communications facility. The
21 department shall pay for the necessary E-9-1-1 equipment and for
23 its installation and maintenance.

25 **Sec. 11. 30-A MRSA c. 1, sub-c. VI, art. 9** is enacted to read:

27 ARTICLE 9. PARKING ENFORCEMENT SPECIALISTS

29 §471. County volunteer parking enforcement programs

31 1. **Programs established.** Each sheriff's department may
33 establish a program to deputize volunteer parking enforcement
35 specialists to enforce handicapped parking restrictions in
37 private parking lots within the county, in areas which are not
39 within the jurisdiction of a municipal police department,
41 pursuant to enforcement agreements entered into between the
43 sheriff's department and the owners of those lots under section
45 3009, subsection 1, paragraph D.

47 2. **Qualifications.** To qualify as a volunteer parking
49 enforcement specialist, an applicant:

51 A. Must be at least 18 years of age;

 B. Must successfully complete a criminal history check to
 standards officially adopted by the sheriff's department; and

 C. Must successfully complete an examination and training
 program, as established in section 473.

The sheriff's department should seek applicants who are
 handicapped.

 3. **Duties.** After an applicant has qualified under
 subsection 2, the sheriff's department shall deputize the

1 applicant as a volunteer parking enforcement specialist. A
2 volunteer parking enforcement specialist shall:

3
4 A. Issue parking citations, tickets or oral warnings to
5 operators of motor vehicles parked in violation of any
6 handicapped parking restriction in private parking lots,
7 pursuant to agreements entered into under section 3009,
8 subsection 1, paragraph D; and

9
10 B. Make referrals to a law enforcement agency when proper
11 and appropriate.

12 **§472. Municipal volunteer parking enforcement programs**

13
14 1. Programs established. Each municipal police department,
15 with the approval of the municipal officers, may establish a
16 program or contract with the sheriff to carry out a program to
17 deputize volunteer parking enforcement specialists to enforce
18 handicapped parking restrictions in private lots within the
19 municipality, pursuant to enforcement agreements entered into
20 between the police department and the owners of those lots under
21 section 3009, subsection 1, paragraph D.

22
23 2. Qualifications. To qualify as a volunteer parking
24 enforcement specialist, an applicant:

25
26 A. Must be at least 18 years of age;

27
28 B. Must successfully complete a criminal history check to
29 standards officially adopted by the police department; and

30
31 C. Must successfully complete an examination and training
32 program, as established in section 473, except that the
33 police department may conduct the local orientation.

34
35 The police department should seek applicants who are handicapped.

36
37 3. Duties. After an applicant has qualified under
38 subsection 2, the police department shall deputize the applicant
39 as a volunteer parking enforcement specialist. A volunteer
40 parking enforcement specialist shall:

41
42 A. Issue parking citations, tickets or oral warnings to
43 operators of motor vehicles parked in violation of any
44 handicapped parking restriction in private parking lots,
45 pursuant to agreements entered into under section 3009,
46 subsection 1, paragraph D; and

47
48 B. Make referrals to a law enforcement agency when proper
49 and appropriate.

50 **§473. Training and examination**

1 1. Training manual. An applicant for the position of
3 parking enforcement specialist shall be provided with a copy of a
5 self-paced study guide and training manual approved by the
7 Commissioner of Public Safety. The manual shall include, but is
9 not limited to, instruction in:

11 A. What a ticket or citation is and how to issue one
13 correctly;

15 B. Reporting and referring cases to a law enforcement
17 officer or agency when appropriate and avoiding
19 confrontation;

21 C. Communication and public relation skills that emphasize
23 positive public relations and community education; and

25 D. Basic first aid.

27 2. Examination. The Commissioner of Public Safety shall
29 devise the examination for parking enforcement specialists. The
31 sheriff's department shall offer examinations as needed.

33 3. Local orientation. Upon successful completion of the
35 examination, applicants shall be given an orientation program by
37 the sheriff's department on local ordinances and procedures.

39 Sec. 12. 30-A MRSA c. 3, sub-c. I, art. 5, as enacted by PL 1987,
41 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
43 c.c. 6 and 9, is repealed.

45 Sec. 13. 30-A MRSA §2001, sub-§8, as enacted by PL 1987, c.
47 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
49 and 9, is further amended to read:

51 8. Municipality. "Municipality" means a city or town,
53 except as provided in chapter 225.

55 Sec. 14. 30-A MRSA §2001, sub-§12, as enacted by PL 1987, c.
57 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
59 and 9, is further amended to read:

61 12. Municipal year. "Municipal year" means a
63 municipality's fiscal year as determined by the municipal
65 officers under section 708 5651.

67 Sec. 15. 30-A MRSA §2253, sub-§2, as enacted by PL 1987, c.
69 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
71 and 9, is further amended to read:

73 2. Limitations. Any A public self-funded pool may not
75 provide for hospital, medical, surgical or dental benefits to the

1 employees of the member political subdivisions in the pool except
2 when those benefits arise from the obligations and
3 responsibilities of the pool in providing automobile insurance
4 coverage and protection against other liability and loss
5 associated with the ownership of motor vehicles.

7 **Sec. 16. 30-A MRSA §2503, sub-§3, ¶F,** as enacted by PL 1987, c.
8 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
9 and 9, is further amended to read:

11 F. If a majority of the voters who vote on a referred
12 ordinance vote ~~against~~ it for its repeal, it is considered
13 repealed upon certification of the election results.

15 **Sec. 17. 30-A MRSA §2521, sub-§§3 and 4,** as enacted by PL 1987,
16 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
17 c.c. 6 and 9, are further amended to read:

19 3. Petition of 3 voters, if no selectmen. When a town,
20 once organized, is without selectmen, a ~~notary-public~~ justice of
21 the peace may call a meeting on the written petition of any 3
22 voters.

23 4. Petition by voters, if selectmen refuse. If the
24 selectmen unreasonably refuse to call a town meeting, a ~~notary~~
25 public justice of the peace may call the meeting on the written
26 petition of a number of voters equal to at least 10% of the
27 number of votes cast in the town at the last gubernatorial
28 election, but in no case less than 10.

31 **Sec. 18. 30-A MRSA §2526, sub-§9, ¶A,** as enacted by PL 1987,
32 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
33 c.c. 6 and 9, is further amended to read:

35 A. Unless the oath is administered in the clerk's presence,
36 the person who administers it shall give the official or
37 deputy sworn a certificate which shall be returned to the
38 clerk for filing. The certificate must state:

- 39 (1) The name of the official or deputy sworn;
41 (2) ~~His~~ The official or deputy's office;
43 (3) The name of the person who administered the oath;
44 and
45 (4) The date when the oath was taken.

49 **Sec. 19. 30-A MRSA §2528, sub-§4, ¶B,** as enacted by PL 1987, c.
50 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
51 and 9, is further amended to read:

1 B. At the end of the list of candidates for each office,
2 there shall be left as many blank spaces as there are
3 vacancies to be filled in which a voter may write in the
4 name and municipality of residence of any person for whom
5 the voter desires to vote. A sticker may not be used to
6 vote for a write-in candidate in any municipal election
7 other than a primary election.

9 **Sec. 20. 30-A MRSA §2528, sub-§5,** as enacted by PL 1987, c.
10 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
11 and 9, is further amended to read:

13 5. **Referendum questions.** By order of the municipal
14 officers or on the written petition of a number of voters equal
15 to at least 10% of the number of votes cast in the town at the
16 last gubernatorial election, but in no case less than 10, the
17 municipal officers shall have a particular article placed on the
18 next ballot printed or shall call a special town meeting for its
19 consideration. A petition or order under this subsection is
20 subject to the filing provisions governing nomination papers
21 under subsection 4.

23 The municipal officers shall hold a public hearing on the subject
24 of the article at least 10 days before the day for voting on the
25 article. At least 7 days before the date set for the hearing,
26 the municipal officers shall give notice of the public hearing by
27 having a copy of the proposed article, together with the time and
28 place of hearing, posted in the same manner required for posting
29 a warrant for a town meeting under section 2523. The municipal
30 officers shall make a return on the original notice stating the
31 manner of of notice and the time it was given.

33 A. The requirement for public hearing is not a prerequisite
34 to the valid issuance of any bond, note or other obligation
35 of a municipality authorized to borrow money by vote under
36 any such particular article.

37 B. If a particular article to be voted on by secret ballot
38 requests an appropriation of money by the municipality, the
39 article, when printed in the warrant and on the ballot, must
40 be accompanied by a recommendation of the municipal officers.

43 (1) If by town meeting vote or charter provision, a
44 budget committee has been established to review
45 proposed town expenditures, the recommendations of the
46 budget committee shall be printed in addition to those
47 of the municipal officers.

49 (2) If the action affects the school budget, a
50 recommendation by the school board shall be printed in
51 addition to those of the municipal officers and the
52 budget committee, if any.

1 **Sec. 21. 30-A MRSA §2528, sub-§6, ¶B**, as enacted by PL 1987, c.
3 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
5 and 9, is further amended to read:

7 B. At the end of the list of candidates for each office,
9 there shall be left as many blank spaces as there are
11 vacancies to be filled in which a voter may write in the
13 name and municipality of residence of any person for whom
15 the voter desires to vote. A sticker may not be used to
17 vote for a write-in candidate in any municipal election
19 other than a primary election.

21 **Sec. 22. 30-A MRSA §2554, sub-§2**, as enacted by PL 1987, c.
23 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
25 and 9, is further amended to read:

27 2. **Write-in votes.** In any city election, a voter may write
29 in the name and municipality of residence of any person for whom
31 the voter desires to vote in the blank space provided at the end
33 of the list of candidates for office. A sticker may not be used
35 to vote for a write-in candidate in any city election other than
37 a primary election.

39 **Sec. 23. 30-A MRSA §2605, sub-§§5 and 6** are enacted to read:

41 5. Former municipal and county officials. This subsection
43 applies to former municipal and county officials.

45 A. No former municipal or county official may, for anyone
47 other than the municipality or county, knowingly act as an
49 agent or attorney, or participate in a proceeding before a
51 municipal or county government body for one year after
termination of the official's employment or term of office
with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the
municipal or county official and was directly within
the responsibilities of that official; and

(2) Which was completed at least one year before the
termination of that official's employment or term of
office.

B. No former municipal or county official may, for anyone
other than the municipality or county, knowingly act as an
agent or attorney, or participate in a proceeding before a
municipal or county government body at any time after
termination of the official's employment or term of office
with that government body in connection with any proceeding:

1 (1) In which the specific issue was pending before the
3 municipal or county official and was directly within
 the responsibilities of that official; and

5 (2) Which was pending within one year of the
7 termination of the municipal or county official's
 employment or term of office.

9 C. This subsection may not be construed to prohibit former
11 municipal or county officials from doing personal business
 with the municipality or county. This subsection does not
13 limit the application of Title 17-A, chapter 25.

15 For the purpose of this subsection, a municipal or county
17 government body includes an agency, board, commission, authority,
 committee, legislative body, department or other governmental
 entity of a municipality or county.

19 6. Avoidance of appearance of conflict of interest. Every
21 municipal and county official shall attempt to avoid the
 appearance of a conflict of interest by disclosure or by
23 abstention.

25 **Sec. 24. 30-A MRSA §2671, sub-§2, ¶F,** as enacted by PL 1987, c.
27 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
 and 9, is further amended to read:

29 F. As provided for in section 2675 2674.

31 **Sec. 25. 30-A MRSA §2691, sub-§3, ¶C,** as enacted by PL 1987,
33 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
 c.c. 6 and 9, is further amended to read:

35 C. The board may provide, by regulation which shall be
37 recorded by the secretary, for any matter relating to the
 conduct of any hearing, provided that the ~~chairman-waives-~~
 chair may waive any regulation upon good cause shown.

39 **Sec. 26. 30-A MRSA §2701, sub-§1, ¶B,** as enacted by PL 1987, c.
41 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
 and 9, is further amended to read:

43 B. Municipal records pertaining to an identifiable employee
 and containing the following:

45 (1) Medical information of any kind, including
47 information pertaining to diagnosis or treatment ~~or~~ of
 mental or emotional disorders;

49 (2) Performance evaluations and personal references
51 submitted in confidence;

- 1 (3) Information pertaining to the credit worthiness of
3 a named employee;
- 5 (4) Information pertaining to the personal history,
7 general character or conduct of members of an
9 employee's immediate family; and
- 11 (5) Complaints, charges or accusations of misconduct,
13 replies to those complaints, charges or accusations and
15 any other information or materials that may result in
17 disciplinary action. If disciplinary action is taken,
the final written decision relating to that action is
no longer confidential after it is completed. The
decision shall state the conduct or other facts on the
basis of which disciplinary action is being imposed and
the conclusions of the acting authority as to the
reasons for that action; and

19 **Sec. 27. 30-A MRSA §3007, sub-§2**, as enacted by PL 1987, c.
21 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is repealed and the following enacted in its place:

23 2. Buildings, structures, mobile homes, travel trailers and
25 related equipment. The following provisions apply to any
27 ordinance enacted by a municipality concerning buildings,
structures, mobile homes, travel trailers intended to be used for
human habitation and all related equipment.

29 A. Any building, structure, mobile home or travel trailer
31 intended to be used for human habitation and travel trailer
33 parking facility or any related equipment existing in
violation of such an ordinance is a nuisance.

35 **Sec. 28. 30-A MRSA §3007, sub-§3, ¶B**, as enacted by PL 1987, c.
37 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is further amended to read:

39 B. If the owner or lessee does not install effective roof
41 guards within 14 days after notice is sent, the owner or
lessee is ~~strictly~~ absolutely liable for all injury caused
by failure to do so.

43 **Sec. 29. 30-A MRSA §3009, sub-§1, ¶D**, as enacted by PL 1987,
45 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
c.c. 6 and 9, is repealed and the following enacted in its place:

47 D. The following provisions apply to the establishment and
49 policing of parking spaces for handicapped persons.

51 (1) Municipal public parking areas are subject to any
applicable requirements of the Maine Human Rights Act.

1 Title 5, chapter 337, subchapter V. The municipality
3 shall post a sign adjacent to and visible from each
5 handicapped parking space established by the
7 municipality. The sign shall display the international
9 symbol for accessibility.

11 (2) Owners of private off-street parking shall arrange
13 for private enforcement or shall enter into agreements
15 with local or county law enforcement agencies to
17 enforce handicapped parking restrictions. Under these
19 agreements, unauthorized vehicles will be ticketed. An
21 owner of private off-street parking who fails to
23 arrange for private enforcement or to enter into an
25 agreement with a law enforcement agency commits a civil
27 violation for which a forfeiture of not less than \$50
29 may be adjudged.

31 Under these agreements, public law enforcement
33 officials may ensure that parking spaces designated for
35 the handicapped are used appropriately by handicapped
37 persons, whether the designated handicapped parking
39 spaces are located on public lots or on private lots
41 open to the public. Handicapped parking restrictions
43 in private lots may also be enforced by county or
45 municipal volunteer parking enforcement specialists as
47 provided in sections 471 and 472.

49 Where service facilities are established on the Maine
51 Turnpike and on the interstate highway system in the
53 State, the State Police shall enforce any handicapped
55 parking restrictions at those facilities.

57 (3) Any vehicle or motorcycle parked in a parking
59 space clearly marked as a handicapped parking space and
61 which does not bear a special registration plate or
63 placard issued under Title 29, sections 252, 252-A and
65 252-C, or a similar plate issued by another state,
67 shall be cited for a forfeiture of not less than \$50.
69 "Clearly marked" includes painted signs on pavement and
71 vertical standing signs which are visible in existing
73 weather conditions.

75 **Sec. 30. 30-A MRSA §3101, first ¶,** as enacted by PL 1987, c.
77 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
79 and 9, is further amended to read:

81 A municipality may acquire real estate or easements for any
83 public purpose use by using the condemnation procedure for town
85 ways, as provided in Title 23, chapter 304, subject to the
87 following provisions. The limitations set forth in this section
89 do not apply to any taking authorized by any other law.
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1 **Sec. 31. 30-A MRSA §3156**, as enacted by PL 1987, c. 737, Pt.
A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
3 is further amended to read:

5 **§3156. Fire aid to other municipalities**

7 Unless otherwise provided by charter or ordinance, the
municipal officers may authorize the municipal fire department to
9 aid in extinguishing fires in other municipalities. Municipal
and volunteer firefighters when assisting other municipalities
11 have the same privileges and immunities as when acting in their
own municipality. Any municipality may compensate an aiding
13 municipality or volunteer fire association for damage to the
aiding department or association's property and to any
15 firefighter or to the firefighter's widew surviving spouse or
dependents because of injury or death sustained in the course of
17 rendering aid to that municipality.

19 **Sec. 32. 30-A MRSA §3506, sub-§2**, as enacted by PL 1987, c.
737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
21 and 9, is further amended to read:

23 2. Meetings. The directors shall meet at least 4 times a
year or more often if required by the bylaws, and upon the call
25 of the president. The president shall call any other meetings
that are requested in writing directed to the president and
27 signed by at least 1/3 of the members of the board of directors.

29 **Sec. 33. 30-A MRSA §3605, sub-§4, ¶B**, as enacted by PL 1987, c.
737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
31 and 9, is further amended to read:

33 B. The lack of compliance is due to the landlord's failure
to provide normal and adequate repair and maintenance.

35 The board or the administrator may refuse to grant a rent
37 decrease under this section, if it is determined that a
tenant is behind in the payment of rent.

39 **Sec. 34. 30-A MRSA §3605, sub-§5**, as enacted by PL 1987, c.
41 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is further amended to read:

43 5. Termination procedure. The board or administrator may
45 adjust or eliminate rent controls if it is determined that the
need for continuing rental levels no longer exists because of
47 sufficient construction of new rental units or because the demand
for rental units has been otherwise met. Any maximum rental
49 level removed under this subsection shall be reimposed or
adjusted and reimposed upon a finding by the board or
51 administrator that a substantial shortage of rental units exists
in the municipality and that the reimposition of rent control is

1 necessary in the public interest. Any action under this
2 subsection is subject to ~~the hearing and notice requirements of~~
3 appeal under section 3606.

5 **Sec. 35. 30-A MRSA §3834, sub-§2**, as enacted by PL 1987, c.
6 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
7 and 9, is further amended to read:

9 2. **Penalty.** Notwithstanding Title 17-A, section 4-A,
10 whoever refuses or fails to leave any such place when requested
11 to do so by the owner, manager, clerk, agent or ~~servant~~ employee
12 of the owner or manager is guilty of a Class D crime and shall be
13 punished by a fine of not more than \$1,000 or by imprisonment for
14 not more than 11 months, or both.

15 **Sec. 36. 30-A MRSA §3851, sub-§2, ¶B**, as enacted by PL 1987, c.
16 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
17 and 9, is further amended to read:

18 B. Every keeper of an inn, hotel or boardinghouse is liable
19 for any guest's loss of the articles or property listed in
20 subsection 1 after those articles have been accepted for
21 deposit, if the loss is caused by the theft or negligence of
22 the keeper or any of the ~~servants~~ keeper's employees.

23 **Sec. 37. 30-A MRSA §3853**, as enacted by PL 1987, c. 737, Pt.
24 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
25 is further amended to read:

26 **§3853. Check or receipt for property delivered for safekeeping**

27 Every guest and every person intending to be a guest of any
28 hotel, inn or boardinghouse in this State, upon delivering any
29 baggage or other articles of property of the guest to the
30 proprietor of the hotel, inn or boardinghouse or to the ~~servants~~
31 proprietor's employees for safekeeping elsewhere than in the room
32 assigned to that guest, shall demand, and the hotel or inn
33 proprietor shall give, a check or receipt for the baggage or
34 other property to evidence the fact of the delivery. No
35 proprietor is liable for the loss of or injury to the baggage or
36 other property of the guest, unless the guest has actually
37 delivered the baggage or other property to the proprietor or ~~the~~
38 ~~servants~~ employees for safekeeping, or unless the loss or injury
39 occurs through the negligence of the proprietor or ~~of--the~~
40 ~~servants--or~~ employees in the hotel or inn.

41 **Sec. 38. 30-A MRSA §3854, first ¶**, as enacted by PL 1987, c.
42 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
43 and 9, is further amended to read:

1 The liability of the keeper of any inn, hotel or
3 boardinghouse for loss of or injury to personal property placed
5 by guests under the keeper's care, other than that described in
7 sections 3851 to 3853, shall be that of a depository for hire,
except that if the loss or injury is caused by fire not
intentionally produced by the keeper or ~~servants~~ employees, the
keeper is not liable.

9 **Sec. 39. 30-A MRSA §3862, sub-§2, ¶B**, as enacted by PL 1987, c.
11 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is further amended to read:

13 B. Mail a copy of the notice addressed to the guest or
15 boarder at the ~~registered~~ place of residence entered in the
register of the inn, hotel or boardinghouse.

17 **Sec. 40. 30-A MRSA §4103, sub-§3, ¶¶A and B**, as enacted by PL
19 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL
1989, c.c. 6 and 9, are further amended to read:

21 A. The licensing authority may not issue any permit for a
23 building or use for which the applicant is required to
obtain a license under Title 38, section 413, until the
25 applicant has obtained that license.

27 B. The licensing authority may not issue any permit for a
29 building or use within a ~~land~~ subdivision, as defined in
section ~~4551~~ 4401, subsection 4, unless that subdivision has
31 been approved in accordance with ~~that-section~~ chapter 187,
subchapter IV.

33 **Sec. 41. 30-A MRSA §4103, sub-§6**, as enacted by PL 1987, c.
35 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is repealed and the following enacted in its place:

37 6. Appeal to Superior Court. An appeal may be taken from
the decision of the municipal officers or the board of appeals as
provided in section 2691, subsection 3, paragraph G.

39 **Sec. 42. 30-A MRSA §4104, sub-§2**, as enacted by PL 1987, c.
41 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
43 and 9, is further amended to read:

45 2. **Liability.** After the expiration of the 30-day period,
47 the owner or lessee is ~~strictly~~ absolutely liable for all injury
caused by failure to correct any conditions cited in the order
49 under subsection 1, and the building inspector shall order the
building vacated.

51 **Sec. 43. 30-A MRSA §4215, sub-§2**, as enacted by PL 1987, c.
737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is further amended to read:

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2. Permit for seasonal conversion. Before converting a seasonal dwelling which is located in the shoreland zoning area, as defined in Title 38, section 435, to a year-round or principal dwelling, a conversion permit must be obtained from the local plumbing inspector. A seasonal conversion permit shall not be approved if a holding tank is used as a means of waste water disposal or storage. The inspector shall issue a permit for conversion of a seasonal dwelling to a year-round or principal dwelling if one of the following conditions is met:

A. A subsurface waste water disposal application, completed after July 1, 1974, exists indicating that the dwelling's waste water disposal system substantially complies with departmental rules and applicable municipal ordinances, provided that the disposal system was installed with the required permit and certificate of approval;

B. A replacement for an existing waste water disposal system has been constructed so that it substantially complies with departmental rules and applicable municipal ordinances;

C. The dwelling unit's waste water is connected to an approved sanitary sewer system; or

D. A variance has been granted under this paragraph. The owner of a seasonal dwelling, upon application, shall be granted a variance from the requirements of this subsection if, based upon the site evaluation, the plumbing inspector finds that in the event of a malfunction of the existing system a replacement subsurface waste water system can be installed which will be in substantial compliance with departmental rules and applicable municipal ordinances and that the new system will not be likely to endanger the quality of the adjacent water bodies or of adjacent private water supplies.

(1) The applicant for a variance shall have a notice documenting the finding of the plumbing inspector recorded in the appropriate registry of deeds and shall send a copy of that notice by certified mail, return receipt requested, to each owner of an abutting lot. The department shall prescribe the form of the notice to be used. The notice shall include a site plan showing:

- (a) The exact location of the replacement system;
- (b) The approximate location of lot lines; and

1 (c) The exact location of existing wells serving
the lot on which the replacement system will be
3 located and those located on abutting lots.

5 (2) After the notice required by subparagraph (1) is
recorded, an abutting landowner may not install a well
7 on the landowner's property in a location which would
prevent the installation of the replacement septic
9 system. The owner of the lot on which the replacement
system would be installed may not erect any structure
11 on the proposed site of the replacement system or
conduct any other activity which would prevent the use
13 of the designated site for the replacement system.

15 (3) In the event of a malfunction of a system for
which a variance has been granted, the owner of the
17 converted seasonal dwelling shall obtain a permit and
repair or replace the existing subsurface disposal
19 system to bring the system into substantial compliance
with departmental rules and applicable municipal
21 ordinances and ensure that the system will not endanger
the quality of adjacent water bodies or adjacent
23 private water supplies. No variance for a new,
expanded or replacement subsurface disposal system may
25 be approved within the shoreland zoning area which is
less restrictive than the requirements of this
27 paragraph or rules adopted to carry out this
paragraph. ~~A seasonal conversion permit shall not be~~
29 ~~approved if a holding tank is used as a means of waste~~
~~water disposal or storage.~~

31 **Sec. 44. 30-A MRSA §4216**, as enacted by PL 1987, c. 737, Pt.
33 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
is repealed and the following enacted in its place:

35 **§4216. Transfers of shoreland property**

37 Any person transferring property on which a subsurface waste
39 water disposal system is located within the shoreland area, as
defined in Title 38, section 435, shall provide the transferee
41 with a written statement by the transferor as to whether the
system has malfunctioned during the 180 days preceding the date
43 of transfer.

45 **Sec. 45. 30-A MRSA §4221, sub-§1**, as enacted by PL 1987, c.
737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
47 and 9, is further amended to read:

49 **1. Appointment; compensation; removal.** In every
municipality, the municipal officers shall appoint one or more
51 inspectors of plumbing, who need not be residents of the
municipality for which they are appointed. Plumbing inspectors

1 shall be appointed ~~under section 2526, subsection 9~~ for a term of
2 one year and shall be sworn and the appointment recorded as
3 provided in section 2526, subsection 9. An individual properly
4 appointed as plumbing inspector and satisfactorily performing the
5 duties may continue in that capacity after the term has expired
6 until replaced. The municipal officers shall notify the
7 department of the appointment of a plumbing inspector in writing
8 within 30 days of the appointment.

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10 Compensation of plumbing inspectors shall be determined by the
11 municipal officers and shall be paid by the respective
12 municipalities.

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14 The municipal officers may remove a plumbing inspector for cause,
15 after notice and hearing.

16
17 **Sec. 46. 30-A MRSA sub-pt. 6-A is enacted to read:**

18
19 SUBPART 6-A

20
21 PLANNING AND LAND USE REGULATION

22
23 CHAPTER 187

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25 PLANNING AND LAND USE REGULATION

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28 SUBCHAPTER I

29
30 GENERAL PROVISIONS

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33 §4301. Definitions

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35 As used in this chapter, unless the context otherwise
36 indicates, the following terms have the following meanings.

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39 1. Affordable housing. "Affordable housing" means decent,
40 safe and sanitary dwellings, apartments or other living
41 accommodations for households which earn an income at or below
42 80% of the median household income as determined by the
43 Department of Economic and Community Development. Affordable
44 housing includes, but is not limited to:

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46 A. Government assisted housing;

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48 B. Housing for low-income and moderate-income families;

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50 C. Manufactured housing;

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52 D. Multi-family housing; and

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E. Group and foster care facilities.

2. Coastal areas. "Coastal areas" means all municipalities and unorganized townships contiguous to tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of any coastal town line.

3. Comprehensive plan. "Comprehensive plan" means a document or interrelated documents containing the elements established under section 4324, subsections 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.

4. Conditional zoning. "Conditional zoning" means the process by which the municipal legislative body may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.

5. Contract zoning. "Contract zoning" means the process by which the property owner, in consideration of the rezoning of that person's property, agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

6. Development. "Development" means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

7. Implementation program. "Implementation program" means that component of a local growth management program which includes the policies and ordinances or other land use regulations which carry out the purposes and general policy statements and strategies of the comprehensive plan in a manner consistent with the goals and guidelines of subchapter II.

8. Land use ordinance. "Land use ordinance" means an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs or delineates allowable uses of land and the standards for those uses.

9. Local growth management program. "Local growth management program" means a document containing the components described in section 4326, including the implementation program, which is consistent with the goals and guidelines established by subchapter II.

10. Local planning committee. "Local planning committee" means the committee established by the municipal officers of a municipality or combination of municipalities which has the general responsibility established under section 4326.

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3 11. Moratorium. "Moratorium" means a land use ordinance or
5 other regulation approved by a municipal legislative body which
temporarily defers development by withholding any authorization
or approval necessary for development.

7 12. Municipal reviewing authority. "Municipal reviewing
9 authority" means the municipal planning board, agency or office,
or if none, the municipal officers.

11 13. Office. "Office" means the Office of Comprehensive
13 Land Use Planning in the Department of Economic and Community
Development.

15 14. Regional council. "Regional council" means a regional
17 planning commission or a council of governments established under
chapter 119, subchapter I.

19 15. Zoning. "Zoning" means the division of a municipality
21 into districts and the prescription and reasonable application of
different regulations in each district.

23 **§4302. Nuisances**

25 Any property or use existing in violation of a municipal
27 land use ordinance or regulation is a nuisance.

29 **SUBCHAPTER II**

31 **GROWTH MANAGEMENT PROGRAM**

33 **ARTICLE 1. GENERAL PROVISIONS**

35 **§4311. Short title**

37 This subchapter shall be known and may be cited as the
39 "Comprehensive Planning and Land Use Regulation Act."

41 **§4312. Statement of findings, purpose and goals**

43 1. Legislative findings. The Legislature finds that:

45 A. The natural resources of the State, including its
47 forests, agricultural lands, wetlands, waters, fisheries,
wildlife, minerals and other related resources, are the
49 underpinnings of the State's economy;

51 B. These same natural resources and traditional patterns of
development have defined the quality of life which the
citizens of the State treasure and seek to protect;

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C. The pace of land speculation and development has accelerated and outstripped the capacity of the State and municipalities to manage this growth under existing state and local laws;

D. This unplanned growth threatens the integrity of the State's natural resource base, the ability of local government and State Government to provide necessary public services, the affordability of decent housing, the long-term economic viability of the State's economy and the quality of life presently enjoyed by Maine's citizens;

E. The most effective land use planning can only occur at the local level of government and comprehensive plans and land use ordinances developed and implemented at the local level are the key in planning for Maine's future;

F. Continued application of the current reactive, case-by-case system of land use regulation is detrimental to the public health, safety and welfare;

G. The State must take appropriate measures to protect and manage certain areas and natural resources which are of statewide significance and concern; and

H. The State has a vital interest in ensuring that a comprehensive system of land use planning and growth management is established as quickly as possible which, while building on the strong foundation of local land use planning, also protects unique aspects of the State's heritage and environment, encourages appropriate uses of the State's natural resources, guides sound economic development and ensures prosperity for Maine citizens in all regions of the State.

2. Legislative purpose. The Legislature declares that it is the purpose of this Act to:

A. Establish, in each municipality of the State, local comprehensive planning and land use management according to the schedule contained in this subchapter and consistent with the goals and policies of the State;

B. Provide municipalities with the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility;

C. Encourage, through state and regional technical and financial assistance and review, local land use ordinances, tools and policies that are based on local comprehensive

1 plans that are prospective and inclusive of all matters
2 determined by the Legislature to be in the best interests of
3 the State;

5 D. Incorporate regional considerations into local planning
6 and decision making so as to ensure consideration of
7 regional needs and the regional impact of development;

9 E. Create a strong partnership between State Government and
10 local government, while clarifying the respective roles of
11 each, to improve land use planning and management;

13 F. Provide for continued direct state regulation of
14 development proposals that occur in areas of statewide
15 concern, that directly impact natural resources of statewide
16 significance or that by their scale or nature otherwise
17 affect vital state interests;

19 G. Encourage the widest possible involvement by the
20 citizens of each municipality in all aspects of the planning
21 and implementation process, in order to ensure that the
22 plans developed by municipalities and reviewed by the State
23 have had the benefit of citizen input; and

25 H. Ensure predictable, timely and cost-effective land use
26 decision making that is coordinated and consistent between
27 State Government and local governments and that minimizes
28 unnecessary duplication.

29 3. State goals. The Legislature hereby establishes a set
30 of state goals to provide overall direction and consistency to
31 the planning and regulatory actions of all state and municipal
32 agencies affecting natural resource management, land use and
33 development. The Legislature declares that, in order to promote
34 and protect the health, safety and welfare of the citizens of the
35 State, it is in the best interests of the State to achieve the
36 following goals:

39 A. To encourage orderly growth and development in
40 appropriate areas of each community, while protecting the
41 State's rural character, making efficient use of public
42 services and preventing development sprawl;

43 B. To plan for, finance and develop an efficient system of
44 public facilities and services to accommodate anticipated
45 growth and economic development;

47 C. To promote an economic climate which increases job
48 opportunities and overall economic well-being;

51 D. To encourage and promote affordable, decent housing
52 opportunities for all Maine citizens;

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3 E. To protect the quality and manage the quantity of the
State's water resources, including lakes, aquifers, great
5 ponds, estuaries, rivers and coastal areas;

7 F. To protect the State's other critical natural resources,
including without limitation, wetlands, wildlife and
9 fisheries habitat, sand dunes, shorelands, scenic vistas and
unique natural areas;

11 G. To protect the State's marine resources industry, ports
and harbors from incompatible development and to promote
13 access to the shore for commercial fishermen and the public;

15 H. To safeguard the State's agricultural and forest
resources from development which threatens those resources;
17

19 I. To preserve the State's historic and archeological
resources; and

21 J. To promote and protect the availability of outdoor
recreation opportunities for all Maine citizens, including
23 access to surface waters.

25 4. Limitation on state rule-making authority. This section
shall not be construed to grant any separate regulatory authority
27 to any state agency beyond that necessary to implement this
subchapter.
29

31 §4313. Transition; savings clause

33 Except as otherwise provided in this section, any
comprehensive plan or land use regulation or ordinance adopted or
35 amended by a municipality before the applicable date established
under section 4343 shall remain in effect until amended or
37 repealed subject to this subchapter.

39 Any zoning, subdivision, site review or impact fee
regulation or ordinance adopted or amended before the applicable
41 date established under section 4343 and not consistent with a
comprehensive plan adopted according to this subchapter is void
43 one year after the applicable date established under section 4343.

45 Any other land use regulation or ordinance adopted or
amended before the applicable date established under section 4343
47 and not consistent with a local growth management program adopted
according to this subchapter is void after January 1, 1998.

49 ARTICLE 2. LOCAL GROWTH MANAGEMENT PROGRAMS

51 §4321. Local comprehensive planning

1 There is established a program of local growth management to
2 accomplish the goals of this subchapter.

3 **§4322. Exception**

5 This article and section 4343, subsection 1, do not apply to
6 municipalities within the jurisdiction of the Maine Land Use
7 Regulation Commission.

9 **§4323. Local authority for growth management**

11 Through the exercise of its home rule authority, subject to
12 the express limitations and requirements of this subchapter,
13 every municipality shall:

15 1. Planning. Plan for its future development and growth;

17 2. Growth management program. Adopt and amend local growth
18 management programs, including comprehensive plans and
19 implementation programs, consistent with this subchapter; and

21 3. Other. Do all other things necessary to carry out the
22 purposes of this subchapter.

25 **§4324. Local responsibility for growth management**

27 This section governs a municipality's responsibility for the
28 preparation or amendment of its local growth management program.
29 Where procedures for the adoption of comprehensive plans and
30 ordinances are governed by other provisions of this Title or
31 municipal charter or ordinance, the municipality may modify the
32 procedural requirements of this section as long as a broad range
33 of opportunity for public comment and review is preserved.

35 1. Growth management program required. Pursuant to the
36 schedule established in section 4343, each municipality shall
37 prepare a local growth management program in accordance with this
38 section and which is consistent with the goals, guidelines and
39 other provisions of this subchapter, or shall amend its existing
40 comprehensive plan and existing land use ordinances to comply
41 with this subchapter.

43 2. Local planning committee. The municipal officers of a
44 municipality or combination of municipalities shall designate and
45 establish a local planning committee.

47 A. The municipal officers may designate any existing
48 planning board or district established under subchapter IV,
49 or a former similar provision, as the local planning
50 committee. Planning boards established under former Title
51 30, section 4952, subsection 1, continue to be governed by

1 those provisions until they are superseded by municipal
2 charter or ordinance.

3
4 B. The local planning committee shall develop and maintain
5 a comprehensive plan and shall develop an initial proposed
6 zoning ordinance or an initial revision of an existing
7 zoning ordinance. In performing these duties, the local
8 planning committee shall:

9
10 (1) Hold public hearings and use other methods to
11 solicit and strongly encourage citizen input; and

12
13 (2) Prepare the comprehensive plan and proposed zoning
14 ordinance and make recommendations to the municipal
15 reviewing authority and municipal legislative body
16 regarding the adoption and implementation of the
17 program or amended program.

18
19 3. Citizen participation. In order to encourage citizen
20 participation in the development of a local growth management
21 program, municipalities shall adopt local growth management
22 programs only after soliciting and considering a broad range of
23 public review and comment. The intent of this subsection is to
24 provide for the broad dissemination of proposals and
25 alternatives, opportunity for written comments, open discussions,
26 information dissemination and consideration of and response to
27 public comments.

28
29 4. Meetings to be public. The local planning committee
30 shall conduct all of its meetings in open, public session with
31 prior notice posted in one or more conspicuous places designed to
32 provide public notice.

33
34 5. State review. Each municipality shall submit its
35 proposed comprehensive plan and zoning ordinance or its amended,
36 existing comprehensive plan and existing zoning ordinance, to the
37 office according to the schedule established under section 4343
38 for review.

39
40 A. At least 60 days before any public hearing required in
41 subsection 8, the local planning committee shall forward its
42 proposed comprehensive plan to the office and to any
43 applicable regional council for review and comment.

44
45 B. At least 60 days before the initial adoption of any
46 zoning ordinance or any revision under section 4327, the
47 local planning committee or municipal reviewing authority,
48 as appropriate, shall forward its proposed ordinance to the
49 office and to any applicable regional council for review and
50 comment. Notice, hearing and other procedural requirements
51 for adoption are governed by applicable provisions of this
Title, municipal charter or ordinance.

1
3 6. Comments sent to municipality. The office shall submit
5 its comments and suggested revisions prepared as provided in
7 section 4343, subsection 3, to the municipality within 60 days
9 after receiving the municipality's proposed comprehensive plan or
11 zoning ordinance.

13 7. Comments and revisions. The local planning committee or
15 municipal reviewing authority shall consider and may adopt any
17 comments and suggested revisions received from the office within
19 the time limits established by this subchapter. The comments and
21 suggested revisions received from the office shall be made
23 available for public inspection with the proposed comprehensive
25 plan or zoning ordinance as required in subsection 8.

27 8. Public hearing required. The local planning committee
29 shall hold at least one public hearing on its proposed
31 comprehensive plan.

33 A. Notice of any public hearing shall be published in a
35 newspaper of general circulation in the municipality at
37 least 2 times. The date of the first publication must be at
39 least 30 days before the hearing. This notice shall also
41 contain a statement that the comments have been received
43 from the office and will be available for distribution
45 before, and for discussion at, the public hearing.

47 B. A copy of the proposed comprehensive plan shall be made
49 available for public inspection at the municipal office or
51 other convenient location with regular public hours at least
30 days before the hearing.

9. Adoption. A comprehensive plan or land use ordinance is
deemed to have been adopted as part of a local growth management
program when it has been accepted by the municipality's
legislative body.

§4325. Cooperative municipal growth management activities

This section governs cooperative local growth management
efforts conducted by 2 or more municipalities.

1. Within municipality. A municipality shall exercise its
land use planning and management authority over the total land
area within its jurisdiction.

2. Agreement. Any combination of contiguous municipalities
may conduct joint planning and regulatory programs to meet the
requirements of this subchapter upon adoption of a written
comprehensive planning and enforcement agreement by the municipal
legislative bodies involved. The municipalities must agree:

1 A. On procedures for joint action in the preparation and
2 adoption of comprehensive plans and land use regulations;

3 B. On the manner of representation on any such joint land
4 use body; and

5 C. On the amount of contribution from each municipality for
6 any costs incurred in the development, implementation and
7 enforcement of the plan and land use ordinances.

8 3. Requirements. The agreement must be in writing,
9 approved by the municipal legislative bodies and forwarded to the
10 office.

11 §4326. Local growth management program

12 A local growth management program shall include at least a
13 comprehensive plan, as described in subsections 1 to 4, and an
14 implementation program as described in subsection 5.

15 1. Inventory and analysis. A comprehensive plan shall
16 include an inventory and analysis section addressing state goals
17 under this subchapter and issues of regional or local
18 significance the municipality considers important. The inventory
19 shall be based on information provided by the State, regional
20 councils and other relevant local sources. The analysis shall
21 include 10-year projections of local and regional growth in
22 population and residential, commercial and industrial activity;
23 the projected need for public facilities; and the vulnerability
24 of and potential impacts on natural resources.

25 The inventory and analysis section shall include, but is not
26 limited to:

27 A. Economic and demographic data describing the
28 municipality and the region in which it is located;

29 B. Significant water resources such as lakes, aquifers,
30 estuaries, rivers and coastal areas and, where applicable,
31 their vulnerability to degradation;

32 C. Significant or critical natural resources, such as
33 wetlands, wildlife and fisheries habitats, significant plant
34 habitats, coastal islands, sand dunes, scenic areas,
35 shorelands, heritage coastal areas as defined under Title 5,
36 section 3316, and unique natural areas;

37 D. Marine-related resources and facilities such as ports,
38 harbors, commercial moorings, commercial docking facilities
39 and related parking, and shell fishing and worming areas;

40 E. Commercial forestry and agricultural land;

1
3 F. Existing recreation, park and open space areas and
significant points of public access to shorelands within a
municipality;

5
7 G. Existing transportation systems, including the capacity
of existing and proposed major thoroughfares, secondary
routes, pedestrian ways and parking facilities;

9
11 H. Residential housing stock, including affordable housing;

13 I. Historical and archeological resources;

15 J. Land use information describing current and projected
development patterns; and

17 K. An assessment of capital facilities and public services
necessary to support growth and development and to protect
the environment and health, safety and welfare of the public
and the costs of those facilities and services.

21 2. Policy development. A comprehensive plan shall include
23 a policy development section which relates the findings contained
in the inventory and analysis section to the state goals. The
25 policies shall:

27 A. Promote the state goals under this subchapter;

29 B. Address any conflicts between state goals under this
subchapter;

31 C. Address any conflicts between regional and local issues;
33 and

35 D. Address the State's coastal policies.

37 3. Implementation strategy. A comprehensive plan shall
39 include an implementation strategy section which contains a
timetable for the implementation program, including land use
41 ordinances, ensuring that the goals established under this
subchapter are met. These implementation strategies must be
43 consistent with state law and shall actively promote policies
developed during the planning process. The timetable shall
45 identify significant ordinances to be included in the
implementation program. The strategies shall guide the
47 subsequent adoption of policies, programs and land use
ordinances. In developing its strategies and subsequent
49 policies, programs and land use ordinances, each municipality
shall employ the following guidelines consistent with the goals
of this subchapter:

1 A. Identify and designate at least 2 basic types of
2 geographic areas:
3
4 (1) Growth areas which are those areas suitable for
5 orderly residential, commercial and industrial
6 development forecast over the next 10 years. Each
7 municipality shall:
8
9 (a) Establish standards for these developments;
10
11 (b) Establish timely permitting procedures;
12
13 (c) Ensure that needed public services are
14 available within the growth area; and
15
16 (d) Prevent inappropriate development in natural
17 hazard areas, including flood plains and areas of
18 high erosion; and
19
20 (2) Rural areas which are those areas where protection
21 should be provided for agricultural, forest, open space
22 and scenic lands within the municipality. Each
23 municipality shall adopt land use policies and
24 ordinances to discourage incompatible development.
25
26 These policies and ordinances may include, without
27 limitation: density limits; cluster or special zoning;
28 acquisition of land or development rights; or performance
29 standards;
30
31 B. Develop a capital investment plan for financing the
32 replacement and expansion of public facilities and services
33 required to meet projected growth and development;
34
35 C. Protect, maintain and, when warranted, improve the water
36 quality of each water body pursuant to Title 38, chapter 3,
37 subchapter I, article 4-A;
38
39 D. Ensure that its land use policies and ordinances are
40 consistent with applicable state law regarding critical
41 natural resources. A municipality may adopt ordinances more
42 stringent than applicable state law;
43
44 E. Ensure the preservation of access to coastal waters
45 necessary for commercial fishing, commercial mooring,
46 docking and related parking facilities. Each coastal
47 municipality shall discourage new development that is
48 incompatible with uses related to the marine resources
49 industry;
50
51 F. Ensure the protection of agricultural and forest
 resources. Each municipality shall discourage new

1 development that is incompatible with uses related to the
2 agricultural and forest industry;

3
4 G. Ensure that its land use policies and ordinances
5 encourage the siting and construction of affordable housing
6 within the community. The municipality shall seek to
7 achieve a level of 10% of new residential development, based
8 on a 5-year historical average of residential development in
9 the municipality, meeting the definition of affordable
10 housing. Municipalities are encouraged to seek creative
11 approaches to assist in the development of affordable
12 housing, including, but not limited to, cluster zoning,
13 reducing minimum lot and frontage sizes and increasing
14 densities;

15
16 H. Ensure that the value of historical and archeological
17 resources is recognized and that protection is afforded to
18 those resources that merit it; and

19
20 I. Encourage the availability of and access to traditional
21 outdoor recreation opportunities, including, without
22 limitation, hunting, boating, fishing and hiking. Each
23 municipality shall identify and encourage the protection of
24 undeveloped shoreland and other areas identified in the
25 local planning process as meriting such protection.

26
27 4. Regional coordination program. A regional coordination
28 program shall be developed with other municipalities to manage
29 shared resources and facilities, such as rivers, aquifers,
30 transportation facilities and others. This program shall provide
31 for consistency with the comprehensive plans of other
32 municipalities for these resources and facilities.

33
34 5. Implementation program. An implementation program shall
35 be adopted that is consistent with the strategies in subsection
36 3. A zoning ordinance shall be adopted within one year of the
37 adoption of a comprehensive plan, with the remainder of the
38 strategies adopted according to the timetable set in the plan.

39
40 **§4327. Monitoring and revision**

41
42 A municipality shall periodically review and revise its
43 local growth management program in a timely manner to account for
44 changes caused by growth and development. A municipality shall
45 update its program at least once every 5 years in accordance with
46 this section. The municipality shall submit any comprehensive
47 plan and zoning ordinance revised under this section to the
48 office for review as provided in section 4343, subsection 4.

49
50 **ARTICLE 3. STATE ROLE IN GROWTH MANAGEMENT**

51 **§4341. State duties**

1
3 There is established a program of local growth management
5 assistance and review to promote the preparation and
7 implementation of local growth management programs and to provide
9 technical and financial assistance to accomplish this purpose.
The program shall also encourage all local growth management
programs and state agency activities to be consistent with the
State's goals and guidelines established by this subchapter.

11 1. Review agency designated. The Office of Comprehensive
13 Land Use Planning in the Department of Economic and Community
Development shall carry out this article and ensure that the
objectives of this subchapter are achieved.

15 2. Biennial progress report. The office shall prepare
17 progress reports on local and state growth management efforts.
19 These reports shall be submitted to the joint standing committee
21 of the Legislature having jurisdiction over appropriations and
23 financial affairs and the joint standing committee of the
Legislature having jurisdiction over natural resources for their
review. The first report shall be submitted on or before January
1, 1990; the 2nd report on January 1, 1991; and biennially
thereafter on or before January 1st.

25 A. In preparing the report, the office shall survey state
27 agencies and municipalities for growth management activities
29 conducted under this subchapter. The office shall provide
data describing:

31 (1) The level of comprehensive planning activity at
the state, regional and local level;

33 (2) The implementation of local growth management
35 programs, including both regulatory and nonregulatory
approaches; and

37 (3) The costs incurred by the State and municipalities
39 through these efforts.

41 B. The office shall include in the report a summary of
43 experience to date in the technical and financial assistance
45 program, the review and comment program and the voluntary
certification program. This summary shall include a
quantitative and qualitative analysis of these programs.

47 C. The office shall include in the report any
49 recommendations it may have for statutory changes in this
51 subchapter or other relevant areas of law. These
recommendations shall include a proposal for the
appropriations needed over the following one-year, 2-year
and 5-year periods to accomplish the objectives of this
subchapter.

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3. Planning Advisory Council. There is established a Planning Advisory Council composed of 7 members. The office shall consult with the council on the development of all rules, guidelines and reports for the implementation of this subchapter.

A. The Governor shall appoint the members of the council, selecting them on the basis of their knowledge of planning, local government, land conservation and land development.

B. Members shall serve for staggered 4-year terms. Initial members shall have terms as follows: Three members for 2-year terms; 3 members for 3-year terms; and one member for a 4-year term. A member may serve no more than 2 consecutive 4-year terms.

C. Members shall not be compensated but shall be reimbursed for all expenses directly related to their participation in council business.

D. Four members constitute a quorum for the conduct of business by the council.

E. The council shall elect a chairman from among its members.

F. The council shall report by January 1, 1989, and every 2 years thereafter, to the Governor and the Legislature on any changes that may be required to accomplish the purposes of this subchapter.

4. Provision of natural resource and other planning information. The office shall develop and supply to all municipalities available natural resource and other planning information for use in the preparation of local growth management programs. By July 1, 1990, the office shall complete an inventory of the State's natural resources sufficient to ensure adequate identification and protection of critical natural resources of statewide significance.

A. The office shall make maximum use of existing information available from other state agencies including, but not limited to:

- (1) The Department of Conservation;
- (2) The Department of Inland Fisheries and Wildlife;
- (3) The Department of Marine Resources;
- (4) The Department of Environmental Protection;

1 (5) The State Planning Office; and

3 (6) The Department of Economic and Community
5 Development.

7 B. The office may contract with regional councils to
9 develop the necessary planning information at a regional
11 level and with other state agencies as necessary to provide
13 support for local planning efforts.

15 5. Rule-making authority. The office may adopt rules, with
17 the advice of the Planning Advisory Council, necessary to carry
19 out the purposes of this subchapter, subject to Title 5, chapter
21 375, subchapter II.

23 §4342. State planning review program

25 1. Coordination. Each state agency with regulatory or
27 other authority affecting the goals established in this
29 subchapter shall submit to the office before January 1, 1990, a
31 written report which addresses how each agency has incorporated
33 the goals of this subchapter into its planned activities. This
35 report shall be revised as necessary but at least once every 2
37 years. After January 1, 1990, these agencies shall conduct their
39 respective activities in a manner consistent with the goals
41 established under this subchapter.

43 2. State agencies. Without limiting the application of
45 this section to other state agencies, the following agencies
47 shall comply with this section:

49 A. Department of Conservation;

51 B. Department of Economic and Community Development;

C. Department of Environmental Protection;

D. Department of Agriculture, Food and Rural Resources;

E. Department of Inland Fisheries and Wildlife;

F. Department of Marine Resources;

G. Department of Transportation;

H. Finance Authority of Maine; and

I. Maine State Housing Authority.

§4343. State review of local programs

51

1 Subject to the availability of state assistance under
2 section 4344, municipalities shall submit their comprehensive
3 plans and zoning ordinances to the office for review as provided
4 in this section.

5
6 1. Review schedule. This subsection provides review
7 deadlines for municipalities.

8 A. The following municipalities must submit their
9 comprehensive plans to the office for review by the
10 following dates:

11
12 (1) By January 1, 1991, those municipalities which
13 have experienced population growth of 10% or more
14 between 1980 and 1987 and which have total populations
15 in excess of 500 persons, based on population estimates
16 provided by the State Planning Office;

17
18 (2) By January 1, 1993, those municipalities which
19 have experienced population growth of 5% or more
20 between 1980 and 1987, based on population estimates
21 provided by the State Planning Office; and

22 (3) All other municipalities by January 1, 1996.

23
24 B. Each municipality shall submit for review a zoning
25 ordinance proposed as part of its implementation program
26 within one year after it submits its comprehensive plan
27 under this section. Other components of the municipality's
28 implementation program not submitted for review shall be
29 adopted in accordance with the timetable provided in the
30 municipality's comprehensive plan.

31
32 C. The office shall revise the schedule deadlines under
33 paragraph A for a municipality based on the availability of
34 state assistance and the municipality's rank in the
35 priorities set forth in section 4344, subsection 1. Nothing
36 in this subsection prevents a municipality from submitting
37 its plan or other program component in advance of this
38 schedule.

39
40 2. Review standard. The office shall review any
41 comprehensive plan and zoning ordinance submitted to it for
42 consistency with the goals and guidelines established in this
43 subchapter.

44 3. Review procedure. The office shall follow the following
45 procedure in reviewing local growth management programs.

46
47 A. The office shall solicit written comments on any
48 proposed comprehensive plan or zoning ordinance from
49 regional councils, state agencies, all municipalities

1 contiguous to the municipality submitting a comprehensive
2 plan or zoning ordinance and any interested residents of the
3 municipality or of contiguous municipalities. The comment
4 period shall extend for 45 days after the office receives
5 the proposal.

7 (1) Each state agency reviewing the proposal shall
8 designate a person or persons responsible for
9 coordinating the agency's review of the proposal.

11 B. Each regional council shall review and submit written
12 comments on the proposal of any municipality within its
13 planning region. The comments shall be submitted to the
14 office and shall contain an analysis of:

15 (1) How the proposal addresses identified regional
16 needs; and

19 (2) Whether the proposal is consistent with those of
20 other municipalities which may be affected by the
21 proposal.

23 C. The office shall prepare all written comments from all
24 sources in a form to be forwarded to the municipality.

26 D. The office shall send all written comments on the
27 proposal to the municipality within 60 days after receiving
28 its proposal. The office shall also forward its comments
29 and suggested revisions to any applicable regional council.

31 E. If warranted, the office shall issue findings
32 specifically describing the deficiencies in the submitted
33 plan or ordinance and the recommended measures for remedying
34 the deficiencies.

35 4. Updates; amendment of comprehensive plans and zoning
36 ordinances. Each municipality shall submit any comprehensive
37 plans and zoning ordinances revised under section 4327 to the
38 office for review in the same manner as provided for the review
39 of new plans and ordinances. The office shall provide an
40 expedited review procedure for those submissions which represent
41 amendments to local growth management programs reviewed by it
42 after January 1, 1989. After the initial review, municipalities
43 shall file copies of any amendment to a zoning ordinance with the
44 office within 30 days after adopting the amendment.

46 5. Voluntary certification of local growth management
47 programs. Any municipality may at any time request a certificate
48 of consistency for its local growth management program. The
49 office, upon request, shall review the program and base its
50 certification decision on the program's consistency with the
51 goals and guidelines established in this subchapter.

1
3 A. The office shall solicit written comments on any
5 proposed local growth management program from regional and
7 state agencies, all municipalities contiguous to the
municipality submitting the proposed program and any
interested residents of the municipality or contiguous
municipalities.

9 B. Any regional council commenting on a proposed program or
11 program component shall determine whether the proposed
13 program or program component is compatible with those of
other municipalities which may be affected by the proposal
and with regional needs identified by the regional council.

15 C. Within 90 days after receiving the municipal request,
17 the office shall issue a certificate of consistency or
19 request revisions to the proposed program. If the same
21 local growth management program or program component has
23 been previously reviewed by the office under subsection 3,
denial of certification or requested revisions must be based
on written comments received or prepared by the office at
that time.

25 D. If the office requests revisions to the proposed
27 program, it shall provide the municipality with findings
29 specifically describing the deficiencies in the submitted
program and the recommended measures for remedying the
deficiencies.

31 E. The office shall provide ample opportunity for the
33 municipality submitting a local growth management program to
respond to and correct any identified deficiencies in the
program.

35 F. When a municipality receives a certificate of
37 consistency, it is eligible for all benefits and incentives
39 conditioned on the certification of a local growth
management program.

41 G. The office shall provide an expedited review and
43 certification procedure for those submissions which
represent minor amendments to local growth management
programs certified by it after January 1, 1989.

45 H. The office's decision on certification constitutes final
47 agency action.

49 §4344. State technical and financial assistance

51 There is established a program of technical and financial
assistance and incentives to regional councils and municipalities
to encourage and facilitate the adoption and implementation of

1 local growth management programs throughout the State. The
2 office shall administer the program.

3

4 1. Municipal assistance priorities. With assistance from
5 regional councils and municipalities, the office shall develop a
6 priority list and establish funding levels for planning and
7 technical assistance grants to municipalities. Priority for
8 assistance shall be based on a municipality's:

9

10 A. Scheduled comprehensive plan development under section
11 4343, subsection 1; and

12 B. Population growth rates, seasonal population estimates,
13 commercial and industrial development rates, the existence
14 and quality of a comprehensive plan and other relevant
15 factors.

16

17 The office shall submit biennial budget requests for this section
18 sufficient to meet the statutory schedule established under
19 section 4343, subsection 1.

20

21 2. Municipal planning assistance. The office shall develop
22 and administer a grant program to provide direct financial
23 assistance to municipalities in the preparation of comprehensive
24 plans under this subchapter. The office shall establish
25 provisions for municipal matching funds, not to exceed 25%, to
26 conduct activities under this section. Grants may be expended
27 for any purpose directly related to the preparation of a
28 municipal comprehensive plan as the municipality and the office
29 may agree, including, without limitation:

30

31 A. The conduct of surveys, inventories and other data
32 gathering activities;

33

34 B. The hiring of planning and other technical staff;

35

36 C. The retention of planning consultants;

37

38 D. Contracts with regional councils for planning and
39 related services; and

40

41

42 E. Other related purposes.

43

44

45 3. Municipal technical assistance. The office shall
46 establish a program of technical assistance using its own staff,
47 the staff of other state agencies and the resources of regional
48 councils to help municipalities develop local growth management
49 programs. By January 1, 1990, the office shall develop a set of
50 model land use ordinances and other mechanisms consistent with
51 the goals and guidelines of this subchapter.

51

1 4. Municipal implementation assistance. The office shall
2 develop and administer a matching grant program to provide direct
3 financial and technical assistance to municipalities for the
4 implementation and administration of local growth management
5 programs certified under section 4343, subsection 5. The maximum
6 municipal cost share may not exceed 25%. The grants may be
7 expended for any purpose directly related to the implementation
8 of a local growth management program and the administration and
9 enforcement of related land use ordinances adopted as part of a
10 certified growth management program. Eligible activities
11 include, but are not limited to:

12 A. Assistance in the development of ordinances;

13 B. Retention of technical and legal expertise for
14 permitting activities; and

15 C. The updating of local growth management programs or
16 components of the program.

17 5. Regional council assistance. The office shall develop
18 and administer a program to develop regional education and
19 training programs, regional policies to address state goals and
20 regional assessments. These assessments may include, but are not
21 limited to, public infrastructure, inventories of agricultural
22 and commercial forest lands, housing needs, recreation and open
23 space needs, and projections of regional growth and economic
24 development. The office shall establish guidelines to ensure
25 methodological consistency among the State's regional councils.
26 The office shall also develop and administer a series of
27 contracts with regional councils to support the involvement of
28 the regional councils in the office's review of local growth
29 management programs.

30 6. Enforcement assistance program. The office shall
31 administer a program of training and financial assistance for
32 municipal code enforcement officers. For a period of up to 12
33 months for any municipal code enforcement officer, the program
34 shall provide funding for educational expenses leading to
35 certification under section 4451 and salary reimbursement while
36 in training.

37 7. Municipal legal defense fund. The office shall develop
38 and administer a municipal legal defense fund to assist
39 municipalities with legal expenses related to the enforcement and
40 defense of land use ordinances adopted as part of a certified
41 local growth management program in accordance with this
42 subchapter. Grants shall be targeted to cases of statewide
43 significance.

44 8. Eligibility for other state aid. After the applicable
45 deadline date established in section 4343, subsection 1, a state

1 agency responsible for administering any grant and assistance
2 program described in paragraph A shall award funds to a
3 municipality only when the municipality has adopted and
4 implemented a certified local growth management program or has,
5 at a minimum, adopted a certified comprehensive plan and
6 implemented certified components of the implementation program
7 that are directly related to the purposes for which the grant or
8 assistance is provided.

9
10 A. State grants and assistance in the following areas are
11 subject to this subsection:

12
13 (1) Assistance in the enforcement of local growth
14 management programs including the municipal legal
15 defense fund and technical and financial assistance in
16 the administration and enforcement of local land use
17 ordinances;

18
19 (2) Assistance in the acquisition of land by the
20 municipality for conservation, natural resource
21 protection, open space or recreational facilities under
22 Title 5, chapter 353; and

23
24 (3) Multi-purpose community development block grants.

25
26 9. Other state grants and assistance. Except for the
27 programs specified in subsection 8, state agencies responsible
28 for administering grant and direct or indirect financial
29 assistance programs to municipalities designed to accommodate or
30 encourage additional growth and development; to improve, expand
31 or construct public facilities; to acquire land for conservation,
32 recreation or resource protection; or to assist in planning or
33 managing for specific economic and natural resource concerns
34 shall allocate funds only to a municipality with an adopted
35 comprehensive plan and implementation program which includes
36 statements of policy or program guidelines directly related to
37 the purposes for which the grant or financial assistance is
38 provided. State agencies shall consider the content of the plan,
39 policies and guidelines in awarding financial assistance to a
40 municipality.

41
42 SUBCHAPTER III

43
44 LAND USE REGULATION

45
46 §4351. Home rule limitations

47
48 This subchapter provides express limitations on municipal
49 home rule authority.

50
51 §4352. Zoning ordinances

1 A municipal zoning ordinance may provide for any form of
3 zoning consistent with this chapter, subject to the following
 provisions.

5 1. Public participation required. The public shall be
7 given an adequate opportunity to be heard in the preparation of a
 zoning ordinance.

9 2. Relation to comprehensive plan. A zoning ordinance must
11 be pursuant to and consistent with a comprehensive plan adopted
 by the municipal legislative body.

13 3. Zoning map required. A zoning map describing each zone
15 established or modified must be adopted as part of the zoning
17 ordinance or incorporated in the ordinance. Any conflict between
 the zoning map and a description by metes and bounds shall be
 resolved in favor of the description by metes and bounds.

19 4. Exemption for public service corporations. Real estate
21 used or to be used by a public service corporation is wholly or
23 partially exempt from an ordinance only when on petition, notice
25 and public hearing the Public Utilities Commission determines
 that the exemption is reasonably necessary for public welfare and
 convenience.

27 5. Effect on local governments. County and municipal
 governments and districts are subject to any zoning ordinance.

29 6. Effect on State. Any zoning ordinance is advisory with
31 respect to the State.

33 7. Petition for rezoning; bond. Any zoning ordinance may
35 provide that if a person petitions for rezoning of an area for
37 the purpose of development in accordance with an architect's plan
39 the area may not be rezoned unless the petitioner posts a
41 performance bond equal to at least 25% of the estimated cost of
 the development. The bond shall become payable to the
 municipality if the petitioner fails to begin construction in a
 substantial manner and in accordance with the plan within one
 year of the effective date of the rezoning.

43 9. Conditional and contract rezoning. A zoning ordinance
45 may include provisions for conditional or contract zoning. All
 rezoning under this subsection must:

47 A. Be consistent with the local growth management program
 adopted under this chapter;

49 B. Establish rezoned areas which are consistent with the
51 existing and permitted uses within the original zones; and

1 C. Only include conditions and restrictions which relate to
2 the physical development or operation of the property.

3
4 The municipal reviewing authority shall conduct a public hearing
5 before any property is rezoned under this subsection. Notice of
6 this hearing shall be posted in the municipal office at least 14
7 days before the public hearing. Notice shall also be published
8 at least 2 times in a newspaper having general circulation in the
9 municipality. The date of the first publication must be at least
10 7 days before the hearing. Notice shall also be sent to the
11 owners of all property abutting the property to be rezoned at the
12 owners' last known addresses. This notice shall contain a copy
13 of the proposed conditions and restrictions with a map indicating
14 the property to be rezoned.

15 **§4353. Zoning adjustment**

16
17 Any municipality which adopts a zoning ordinance shall
18 establish a board of appeals subject to this section.

19
20 1. Jurisdiction; procedure. The board of appeals shall
21 hear appeals from any action or failure to act of the official or
22 board responsible for enforcing the zoning ordinance, unless only
23 a direct appeal to Superior Court has been provided by municipal
24 ordinance. The board of appeals is governed by section 2691,
25 except that section 2691, subsection 2, does not apply to boards
26 existing on September 23, 1971.

27
28 2. Powers. In deciding any appeal, the board may:

29
30 A. Interpret the provisions of an ordinance called into
31 question;

32
33 B. Approve the issuance of a special exception permit or
34 conditional use permit in strict compliance with the
35 ordinance except that, if the municipality has authorized
36 the planning board, agency or office to issue these permits,
37 an appeal from the granting or denial of such a permit may
38 be taken directly to Superior Court if required by local
39 ordinance; and

40
41 C. Grant a variance in strict compliance with subsection 4.

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43 3. Parties. The board shall reasonably notify the
44 petitioner, the planning board, agency or office and the
45 municipal officers of any hearing. These persons shall be made
46 parties to the action. All interested persons shall be given a
47 reasonable opportunity to have their views expressed at any
48 hearing.

49
50 4. Variance. The board may grant a variance only when
51 strict application of the ordinance to the petitioner and the

1 petitioner's property would cause undue hardship. The term
2 "undue hardship" as used in this subsection means:

3

4 A. The land in question cannot yield a reasonable return
5 unless a variance is granted;

6

7 B. The need for a variance is due to the unique
8 circumstances of the property and not to the general
9 conditions in the neighborhood;

10

11 C. The granting of a variance will not alter the essential
12 character of the locality; and

13

14 D. The hardship is not the result of action taken by the
15 applicant or a prior owner.

16

17 Under its home rule authority a municipality may, in a zoning
18 ordinance, adopt additional limitations on the granting of a
19 variance, including but not limited to, a provision that a
20 variance may be granted only for a use permitted in a particular
21 zone.

22

23 5. Variance recorded. If the board grants a variance under
24 this section, a certificate indicating the name of the current
25 property owner, identifying the property by reference to the last
26 recorded deed in its chain of title and indicating the fact that
27 a variance, including any conditions on the variance, has been
28 granted and the date of the granting, shall be prepared in
29 recordable form. This certificate must be recorded in the local
30 registry of deeds within 30 days of final approval of the
31 variance or the variance is void. The variance is not valid
32 until recorded as provided in this subsection.

33

§4354. Impact fees

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35 A municipality may enact an ordinance under its home rule
36 authority requiring the construction of off-site capital
37 improvements or the payment of impact fees instead of the
38 construction. After the applicable deadlines established under
39 section 4343, subsection 1, any impact fee ordinance must have
40 been adopted as part of a certified local growth management
41 program.

42

43 1. Construction or fees may be required. The requirements
44 may include construction of capital improvements or impact fees
45 instead of capital improvements including the expansion or
46 replacement of existing infrastructure facilities and the
47 construction of new infrastructure facilities.

48

49 A. For the purposes of this subsection, infrastructure
50 facilities include, but are not limited to:

51

- 1 (1) Waste water collection and treatment facilities;
- 3 (2) Municipal water facilities;
- 5 (3) Solid waste facilities;
- 7 (4) Fire protection facilities;
- 9 (5) Roads and traffic control devices; and
- 11 (6) Parks and other open space or recreational areas.

13 2. Restrictions. Any ordinance that imposes or provides
15 for the imposition of impact fees must meet the following
17 requirements.

17 A. The amount of the fee must be reasonably related to the
19 development's share of the cost of infrastructure
21 improvements made necessary by the development.

21 B. Funds received from impact fees must be segregated from
23 the municipality's general revenues. The municipality shall
25 expend the funds solely for the purposes for which they were
27 collected.

25 C. The ordinance must establish a reasonable schedule under
27 which the municipality is required to use the funds in a
29 manner consistent with the capital investment component of
31 the comprehensive plan.

31 D. The ordinance must establish a mechanism by which the
33 municipality may refund impact fees, or a portion of impact
35 fees, actually paid that exceed the municipality's actual
37 costs or that were not expended according to the schedule
39 under this subsection.

37 E. The ordinance must be adopted as part of and consistent
39 with a local growth management program, including the
41 component regarding capital investment, meeting the
43 requirements of this chapter.

41 §4355. Application fees

43 Any application fee charged by a municipality for an
45 application for any land use permit issued by the municipality
47 may not exceed the reasonable cost of processing, review,
49 regulation and supervision of the application by the municipality
51 and its consultants and the administration of any requirement for
 a certificate of compliance with any permit conditions.

51 §4356. Moratoria

1 Any moratorium adopted by a municipality on the processing
2 or issuance of development permits or licenses must meet the
3 following requirements.

5 1. Necessity. The moratorium must be needed:

7 A. To prevent a shortage or an overburden of public
8 facilities that would otherwise occur during the effective
9 period of the moratorium or that is reasonably foreseeable
10 as a result of any proposed or anticipated development; or

11 B. Because the application of existing comprehensive plans,
12 land use ordinances or regulations or other applicable laws,
13 if any, is inadequate to prevent serious public harm from
14 residential, commercial or industrial development in the
15 affected geographic area.

17 2. Definite term. The moratorium must be of a definite
18 term of not more than 180 days. The moratorium may be extended
19 for additional 180-day periods if the municipality adopting the
20 moratorium finds that:

21 A. The problem giving rise to the need for the moratorium
22 still exists; and

23 B. Reasonable progress is being made to alleviate the
24 problem giving rise to the need for the moratorium.

25 3. Extension by selectmen. In municipalities where the
26 municipal legislative body is the town meeting, the selectmen may
27 extend the moratorium in compliance with subsection 2 after
28 notice and hearing.

29 §4357. Community living arrangements

30 1. Legislative intent. It is the intent of the Legislature
31 that persons seeking to establish a community living facility in
32 a single-family residential zone are not prohibited on the basis
33 of the disability served. It is also the intent of the
34 Legislature that community living facilities for mentally
35 handicapped and developmentally disabled persons are not
36 prohibited from single-family residential zones in a
37 municipality. Municipal ordinances or actions which have the
38 effect of prohibiting these community living facilities from
39 single-family residential zones, particularly by establishing
40 criteria for single-family residential zones in excess of the
41 criteria in subsections 4 and 5, are a violation of legislative
42 intent.

43 2. Definitions. As used in this section, unless the
44 context indicates otherwise, the following terms have the
45 following meanings.

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A. "Board of appeals" means the board of appeals established by a municipality to hear appeals related to enforcement of the zoning ordinances.

B. "Community living facility" means a housing facility for 8 or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

C. "Single-family residential zone" means a residential zone designated by a municipality for single-family housing except as provided in this section. If there are no residential zones designated or considered by a municipality as single-family residential zones, all residential zones in the municipality in which community living facilities are not a permitted use are deemed to be single-family residential zones.

3. Permitted or conditional community living use; definition. In order to implement the policy of this State that mentally handicapped or developmentally disabled persons shall not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a community living facility shall be deemed a permitted or conditional single-family residential use of property for the purposes of zoning.

4. Hearing. The municipality shall hold a public hearing within 60 days of receipt of an application to establish a community living use within a single-family residential zone, unless a community living use is a permitted use within the single-family zone. The failure to hold the public hearing required by this subsection within the 60-day period constitutes approval of the application unless the time period is extended by mutual agreement of the parties.

A. The public hearing shall be conducted by the board of appeals and interested parties shall be notified. The notice period and procedure for zoning appeals, as established by the municipality, must meet the notice requirements of this section.

B. The board of appeals shall receive public comment on the proposed community living facility. The board may modify or disapprove the application only upon a finding of one or more of the following:

- (1) The proposed use would create or aggravate a traffic hazard;

1 (2) The proposed use would hamper pedestrian
2 circulation;

3 (3) The proposed use would not permit convenient
4 access to commercial shopping facilities, medical
5 facilities, public transportation, fire protection or
6 police protection;

7 (4) The proposed use would not comply with applicable
8 building, housing, plumbing and other safety codes,
9 including municipal minimum lot size and building
10 set-back requirements for new construction; or

11 (5) The proposed use would not comply with the density
12 requirements of subsection 5.

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17 5. Density. Density regulation of community living uses is
18 intended to permit the location of these uses within a
19 municipality while ensuring that they will not become overly
20 concentrated in neighborhoods to the detriment of either the
21 neighborhoods or those residing in the community living uses.

22
23 No state agency may approve, authorize, certify or license a
24 community living use nor may the board of appeals, pursuant to an
25 authorized public hearing, approve an application for a community
26 living use, if:

27 A. A proposed community living use would be located within
28 1,500 feet of an existing community living use; or

29
30 B. A proposed community living use would result in the
31 excessive concentration of these uses within the zone or
32 municipality.

33
34 The board of appeals may waive density regulations for adjacent
35 community living uses providing essential components of a single
36 program.

37
38 6. Appeals. Any decision by the board of appeals under
39 this section may be appealed in accordance with section 2691,
40 subsection 3, paragraph G.

41
42 7. Applicability. Except for the density requirements of
43 subsection 5, this section does not apply to:

44 A. Community living uses authorized, certified or licensed
45 before July 13, 1982;

46 B. Community living uses for which an application was made
47 before July 13, 1982; or

1 C. Facilities licensed by the Department of Human Services
2 under Title 22, section 8101, subsections 1 to 3, subsection
3 4, paragraph A and subsection 5.

4 8. Repeal of designation. If a municipality repeals the
5 designation of single-family residential zones, community living
6 facilities located in the other residential zones before
7 September 29, 1987 are not required to meet the criteria of
8 subsections 4 and 5.

9
10 §4358. Regulation of manufactured housing

11 1. Definitions. As used in this section, unless the
12 context otherwise indicates, the following terms have the
13 following meanings.

14 A. "Manufactured housing" means a structural unit or units
15 designed for occupancy and constructed in a manufacturing
16 facility and transported, by the use of its own chassis or
17 an independent chassis, to a building site. The term
18 includes any type of building which is constructed at a
19 manufacturing facility and transported to a building site
20 where it is used for housing and may be purchased or sold by
21 a dealer in the interim. For purposes of this section, 2
22 types of manufactured housing are included. Those 2 types
23 are:

24 (1) Those units constructed after June 15, 1976,
25 commonly called "newer mobile homes," which the
26 manufacturer certifies are constructed in compliance
27 with the United States Department of Housing and Urban
28 Development standards, meaning structures transportable
29 in one or more sections, which in the traveling mode
30 are 14 body feet or more in width and are 750 or more
31 square feet, and which are built on a permanent chassis
32 and designed to be used as dwellings, with or without
33 permanent foundations, when connected to the required
34 utilities including the plumbing, heating, air
35 conditioning or electrical systems contained in the
36 unit;

37 (a) This term also includes any structure which
38 meets all the requirements of this subparagraph,
39 except the size requirements and with respect to
40 which the manufacturer voluntarily files a
41 certification required by the Secretary of the
42 United States Department of Housing and Urban
43 Development and complies with the standards
44 established under the National Manufactured
45 Housing Construction and Safety Standards Act of
46 1974, United States Code, Title 42, Section 5401,
47 et seq.; and

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3 (2) Those units commonly called "modular homes," which
5 the manufacturer certifies are constructed in
7 compliance with Title 10, chapter 957, and rules
9 adopted under that chapter, meaning structures,
11 transportable in one or more sections, which are not
constructed on a permanent chassis and are designed to
be used as dwellings on foundations when connected to
required utilities, including the plumbing, heating,
air-conditioning or electrical systems contained in the
unit.

13 B. "Mobile home park" means a parcel of land under unified
15 ownership approved by the municipality for the placement of
manufactured housing.

17 C. "Mobile home subdivision or development" means a parcel
19 of land approved by the municipal reviewing authority under
21 subchapter IV for the placement of manufactured houses on
individually owned lots.

23 D. "Permanent foundation" means all of the following:

25 (1) A full, poured concrete or masonry foundation;

27 (2) A poured concrete frost wall or a mortared masonry
frost wall, with or without a concrete floor;

29 (3) A reinforced, floating concrete pad for which the
31 municipality may require an engineer's certification if
it is to be placed on soil with high frost
33 susceptibility; and

35 (4) Any foundation which, pursuant to the building
code of the municipality, is permitted for other types
37 of single-family dwellings.

39 E. "Pitched, shingled roof" means a roof with a pitch of 2
41 or more vertical units for every 12 horizontal units of
measurement and which is covered with asphalt or fiberglass
43 composition shingles or other materials, but specifically
excludes corrugated metal roofing material.

45 2. Location of manufactured housing. Municipalities shall
permit manufactured housing to be placed or erected on individual
47 house lots in a number of locations on undeveloped lots where
single-family dwellings are allowed, subject to the same
49 requirements as single-family dwellings, except as otherwise
provided in this section.

51 A. For the locations required by this section, municipal
ordinances may not require that manufactured housing on

1 individual lots be greater than 14 feet in width, although
2 municipalities may establish design criteria, including, but
3 not limited to, a pitched, shingled roof; a permanent
4 foundation; and exterior siding that is residential in
5 appearance, provided that:

7 (1) The requirements do not have the effect of
8 circumventing the purposes of this section; and

9
10 (2) The design requirements may not be used to prevent
11 the relocation of any manufactured housing, regardless
12 of its date of manufacture, that is legally sited
13 within the municipality as of August 4, 1988.

15 B. Providing one or more zones or locations where mobile
16 home parks or mobile home subdivisions or developments are
17 allowed does not constitute compliance with this section.

19 C. This section does not prohibit municipalities from
20 establishing controls on manufactured housing which are less
21 restrictive than are permitted by this section.

23 D. Municipalities shall not prohibit manufactured housing,
24 regardless of its date of manufacture, solely on the basis
25 of a date of manufacture before June 14, 1976, or the
26 failure of a unit to have been manufactured in accordance
27 with the National Manufactured Housing Construction and
28 Safety Standards Act of 1974, United States Code, Title 42,
29 Chapter 70. Municipalities may apply the design standards
30 permitted by this section to all manufactured housing,
31 regardless of its date of manufacture, and may apply
32 reasonable safety standards to manufactured housing built
33 before June 15, 1976, or not built in accordance with the
34 National Manufactured Housing Construction and Safety
35 Standards Act of 1974, United States Code, Title 42, Chapter
36 70.

37
38 3. Regulation of mobile home parks. This subsection
39 governs a municipality's regulation of mobile home parks.

41 A. A municipality shall not enact or enforce any ordinance
42 which requires the minimum size of lots within a mobile home
43 park to be any larger than that which is required by the
44 Manufactured Housing Board by rule under Title 10, section
45 9005.

47 Municipalities shall not enact or enforce any ordinance
48 concerning the construction of private roads within mobile
49 home parks which is more restrictive than the standards
50 established by the American National Standards Institute
51 standard 225.1.

1 B. Notwithstanding any provision in this subsection, a
3 person developing or expanding a mobile home park has the
5 burden of proving that development will not pollute a public
water supply or aquifer or violate any state law relating to
land development, subdivision or use.

7 C. A municipality shall permit mobile home parks to expand
9 and to be developed in a number of environmentally suitable
11 locations in the municipality with reasonable consideration
13 being given to permit existing mobile home parks to expand
in their existing locations. A municipality may not select
a location for a mobile home park development which is not
reasonably suitable because of:

15 (1) Prior lot division;

17 (2) Locational setting within the municipality;

19 (3) Natural features; or

21 (4) Other similar factors.

23 This paragraph is effective January 1, 1990.

25 4. Certification of payment of sales tax. No municipality
27 may allow the construction or location of any new manufactured
29 housing within the municipality by any person other than a dealer
licensed by the State with a sales tax certificate, without:

31 A. A bill of sale indicating the name, address, dealer
33 registration number and sales tax certificate number of the
person who sold or provided the manufactured housing to the
buyer locating the housing in the municipality; or

35 B. If no such bill of sale is presented, evidence of
37 certification of payment of the sales tax in accordance with
Title 36, section 1760, subsection 40, and Title 36, section
39 1952-B.

41 In municipalities which require any type of permit for
43 manufactured housing, the permit is deemed to be not approved or
valid until payment of the sales tax has been certified.

45 §4359. State policy relating to municipal commercial landfill
facilities moratoria

47 It is the policy of this State, with respect to commercial
49 landfill facilities:

51 1. State and municipal control. To affirm the importance
of state and municipal control over the establishment of new

1 commercial landfill facilities and over the substantial expansion
2 of existing commercial landfill facilities; and

3
4 2. Recognition of home rule authority. To recognize that
5 any municipality may, under its home rule authority, enact a
6 moratorium on the issuance or processing of any municipal permit
7 for a new commercial landfill facility or the substantial
8 expansion of a commercial landfill facility, as defined by Title
9 38, section 1303, subsection 11-B.

11 SUBCHAPTER IV

13 SUBDIVISIONS

15 §4401. Definitions

17 As used in this subchapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

21 1. Densely developed area. "Densely developed area" means
22 any commercial, industrial or compact residential area of 10 or
23 more acres with an existing density of at least one principal
24 structure per 2 acres.

25 2. Dwelling unit. "Dwelling unit" means any part of a
26 structure which, through sale or lease, is intended for human
27 habitation, including single-family and multifamily housing,
28 condominiums, apartments and time-share units.

31 3. Principal structure. "Principal structure" means any
32 building other than one which is used for purposes wholly
33 incidental or accessory to the use of another building on the
34 same premises.

35 4. Subdivision. "Subdivision" means the division of a
36 tract or parcel of land into 3 or more lots within any 5-year
37 period that begins on or after September 23, 1971. This
38 definition applies whether the division is accomplished by sale,
39 lease, development, buildings or otherwise. The term
40 "subdivision" also includes the division of a new structure or
41 structures on a tract or parcel of land into 3 or more dwelling
42 units within a 5-year period and the division of an existing
43 structure or structures previously used for commercial or
44 industrial use into 3 or more dwelling units within a 5-year
45 period.

47 A. In determining whether a tract or parcel of land is
48 divided into 3 or more lots, the first dividing of the tract
49 or parcel is considered to create the first 2 lots and the
50 next dividing of either of these first 2 lots, by whomever
51 accomplished, is considered to create a 3rd lot, unless:

1
3 (1) Both dividings are accomplished by a subdivider
5 who has retained one of the lots for the subdivider's
7 own use as a single-family residence or for open space
9 land as defined in Title 36, section 1102, for a period
11 of at least 5 years before the 2nd dividing occurs; or

13 (2) The division of the tract or parcel is otherwise
15 exempt under this subchapter.

17 B. The dividing of a tract or parcel of land and the lot or
19 lots so made, which dividing or lots when made are not
21 subject to this subchapter, do not become subject to this
23 subchapter by the subsequent dividing of that tract or
25 parcel of land or any portion of that tract or parcel. The
27 municipal reviewing authority shall consider the existence
29 of the previously created lot or lots in reviewing a
31 proposed subdivision created by a subsequent dividing.

33 C. A lot of 40 or more acres shall not be counted as a lot,
35 except:

37 (1) When the lot or parcel from which it was divided
39 is located entirely or partially within any shoreland
41 area as defined in Title 38, section 435; or

43 (2) When a municipality has, by ordinance, or the
45 municipal reviewing authority has, by regulation,
47 elected to count lots of 40 or more acres as lots for
49 the purposes of this subchapter when the parcel of land
51 being divided is located entirely outside any shoreland
 area as defined in Title 38, section 435.

D. A division accomplished by devise, condemnation, order
 of court, gift to a person related to the donor by blood,
 marriage or adoption or a gift to a municipality, unless the
 intent of that gift is to avoid the objectives of this
 subchapter, or a division accomplished by the transfer of
 any interest in land to the owner of abutting land, does not
 create a lot or lots for the purposes of this definition.

E. The division of a tract or parcel of land into 3 or more
 lots and upon each of which lots permanent dwelling
 structures legally existed before September 23, 1971 is not
 a subdivision.

F. In determining the number of dwelling units in a
 structure, the provisions of this subsection regarding the
 determination of the number of lots apply, including
 exemptions from the definition of a subdivision of land.

1 G. Notwithstanding the provisions of this subsection,
3 leased dwelling units are not subject to subdivision review
5 if the units are otherwise subject to municipal review at
7 least as stringent as that required under this subchapter.

9 H. Nothing in this subchapter may be construed to prevent a
11 municipality from enacting an ordinance under its home rule
13 authority which expands the definition of subdivision to
15 include the division of a structure for commercial or
17 industrial use or which otherwise regulates land use
19 activities.

21 5. New structure or structures. "New structure or
23 structures" includes any structure for which construction begins
25 on or after September 23, 1988. The area included in the
27 expansion of an existing structure is deemed to be a new
29 structure for the purposes of this subchapter.

31 6. Tract or parcel of land. "Tract or parcel of land"
33 means all contiguous land in the same ownership, provided that
35 lands located on opposite sides of a public or private road are
37 considered each a separate tract or parcel of land unless the
39 road was established by the owner of land on both sides of the
41 road.

43 7. Outstanding river segments. In accordance with Title
45 12, section 402, outstanding river segments include:

47 A. The Aroostook River from the Canadian border to the
49 Masardis and T.10, R.6, W.E.L.S. town line, excluding the
51 segment in T.9, R.5, W.E.L.S.;

53 B. The Carrabassett River from the Kennebec River to the
55 Carrabassett Valley and Mt. Abram Township town line;

57 C. The Crooked River from its inlet into Sebago Lake to the
59 Waterford and Albany Township town line;

61 D. The Damariscotta River from the Route 1 bridge in
63 Damariscotta to the dam at Damariscotta Mills;

65 E. The Dennys River from the Route 1 bridge to the outlet
67 of Meddybemps Lake, excluding the western shore in Edmunds
69 Township and No. 14 Plantation;

71 F. The East Machias River, including the Maine River, from
73 1/4 of a mile above the Route 1 bridge to the East Machias
75 and T.18, E.D., B.P.P. town line, from the T.19, E.D.,
77 B.P.P. and Wesley town line to the outlet of Crawford Lake,
79 and from the No. 21 Plantation and Alexander town line to
81 the outlet of Pocomoonshine Lake, excluding Hadley Lake,
83 Lower Mud Pond and Upper Mud Pond;

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G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

Q. The Saco River from the Little Ossipee River to the New Hampshire border;

1 R. The St. Croix River from the Route 1 bridge in Calais to
3 the Calais and Baring Plantation town line, from the Baring
5 Plantation and Baileyville town line to the Baileyville and
7 Fowler Township town line, and from the Lambert Lake
 Township and Vanceboro town line to the outlet of Spednik
 Lake, excluding Woodland Lake and Grand Falls Flowage;

9 S. The St. George River from the Route 1 bridge in
11 Thomaston to the outlet of Lake St. George in Liberty,
 excluding White Oak Pond, Seven Tree Pond, Round Pond,
 Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

13 T. The St. John River from the Van Buren and Hamlin
15 Plantation town line to the Fort Kent and St. John
17 Plantation town line, and from the St. John Plantation and
 St. Francis town line to the Allagash and St. Francis town
 line;

19 U. The Sandy River from the Kennebec River to the Madrid
21 and Township E town line;

23 V. The Sheepscot River from the railroad bridge in
25 Wiscasset to the Halldale Road in Montville, excluding Long
27 Pond and Sheepscot Pond, including its tributary the West
 Branch of the Sheepscot from its confluence with the
 Sheepscot River in Whitefield to the outlet of Branch Pond
 in China;

29 W. The West Branch Pleasant River from the East Branch in
31 Brownville to the Brownville and Williamsburg Township town
 line; and

33 X. The West Branch Union River from the Route 181 bridge in
35 Mariaville to the outlet of Great Pond in the Town of Great
 Pond.

37 **§4402. Exceptions**

39 This subchapter does not apply to:

41 1. Previously approved subdivisions. Proposed subdivisions
43 approved by the planning board or the municipal officials before
 September 23, 1971 in accordance with laws then in effect;

45 2. Previously existing subdivisions. Subdivisions in
47 actual existence on September 23, 1971 that did not require
 approval under prior law; or

49 3. Previously recorded subdivisions. A subdivision, a plan
51 of which had been legally recorded in the proper registry of
 deeds before September 23, 1971.

1 §4403. Municipal review and regulation

3 This section governs municipal review of proposed
subdivisions.

5 1. Municipal reviewing authority. The municipal reviewing
7 authority shall review all requests for subdivision approval. On
all matters concerning subdivision review, the municipal
9 reviewing authority shall maintain a permanent record of all its
meetings, proceedings and correspondence.

11 2. Regulations; review procedure. The municipal reviewing
13 authority may, after a public hearing, adopt, amend or repeal
additional reasonable regulations governing subdivisions which
15 shall control until amended, repealed or replaced by regulations
adopted by the municipal legislative body. The municipal
17 reviewing authority shall give at least 7 days' notice of this
hearing.

19 A. The regulations may provide for a multi-stage
21 application or review procedure consisting of no more than 3
stages:

23 (1) Preapplication sketch plan;

25 (2) Preliminary plan; and

27 (3) Final plan.

29 Each stage must meet the time requirements of subsections 4
31 and 5.

33 3. Application; notice; completed application. This
35 subsection governs the procedure to be followed after receiving
an application for a proposed subdivision.

37 A. When an application is received, the municipal reviewing
39 authority shall give a dated receipt to the applicant and
shall notify by mail all abutting property owners of the
41 proposed subdivision, specifying the location of the
proposed subdivision and including a general description of
the project.

43 B. Within 30 days after receiving an application, the
45 municipal reviewing authority shall notify the applicant in
writing either that the application is complete or, if the
47 application is incomplete, the specific additional material
needed to complete the application.

49 C. After the municipal reviewing authority has determined
51 that a complete application has been filed, it shall notify

1 the applicant and begin its full evaluation of the proposed
2 subdivision.

3

4 4. Public hearing; notice. If the municipal reviewing
5 authority decides to hold a public hearing on an application for
6 subdivision approval, it shall hold the hearing within 30 days
7 after receiving a complete application. The municipal reviewing
8 authority shall have notice of the date, time and place of the
9 hearing:

11 A. Given to the applicant; and

13 B. Published, at least 2 times, in a newspaper having
14 general circulation in the municipality in which the
15 subdivision is proposed to be located. The date of the
16 first publication must be at least 7 days before the hearing.

17

18 5. Decision; time limits. The municipal reviewing
19 authority shall, within 30 days of a public hearing or, if no
20 hearing is held, within 60 days of receiving a complete
21 application or within any other time limit that is otherwise
22 mutually agreed to, issue an order:

23

24 A. Denying approval of the proposed subdivision;

25

26 B. Granting approval of the proposed subdivision; or

27

28 C. Granting approval upon any terms and conditions that it
29 considers advisable to:

30

31 (1) Satisfy the criteria listed in section 4404;

32

33 (2) Satisfy any other regulations adopted by the
34 reviewing authority; and

35

36 (3) Protect and preserve the public's health, safety
37 and general welfare.

38

39 6. Burden of proof; findings of fact. In all instances,
40 the burden of proof is upon the person proposing the
41 subdivision. In issuing its decision, the reviewing authority
42 shall make findings of fact establishing that the proposed
43 subdivision does or does not meet the criteria described in
44 subsection 5.

45

46 7. Conditioned on variance. If the initial approval or any
47 subsequent amendment of a subdivision is based in part on the
48 granting of a variance, the subdivider must comply with section
49 4406, subsection 1, paragraph B.

50

51 §4404. Review criteria

1 When adopting any subdivision regulations and when reviewing
3 any subdivision for approval, the municipal reviewing authority
 shall consider the following criteria and, before granting
5 approval, must determine that:

7 1. Pollution. The proposed subdivision will not result in
 undue water or air pollution. In making this determination, it
9 shall at least consider:

11 A. The elevation of the land above sea level and its
 relation to the flood plains;

13 B. The nature of soils and subsoils and their ability to
 adequately support waste disposal;

15 C. The slope of the land and its effect on effluents;

17 D. The availability of streams for disposal of effluents;
19 and

21 E. The applicable state and local health and water resource
23 rules and regulations;

25 2. Sufficient water. The proposed subdivision has
 sufficient water available for the reasonably foreseeable needs
27 of the subdivision;

29 3. Municipal water supply. The proposed subdivision will
 not cause an unreasonable burden on an existing water supply, if
31 one is to be used;

33 4. Erosion. The proposed subdivision will not cause
 unreasonable soil erosion or a reduction in the land's capacity
35 to hold water so that a dangerous or unhealthy condition results;

37 5. Traffic. The proposed subdivision will not cause
 unreasonable highway or public road congestion or unsafe
39 conditions with respect to the use of the highways or public
 roads existing or proposed;

41 6. Sewage disposal. The proposed subdivision will provide
43 for adequate sewage waste disposal;

45 7. Municipal solid waste and sewage disposal. The proposed
 subdivision will not cause an unreasonable burden on the
47 municipality's ability to dispose of solid waste and sewage, if
 municipal services are to be used;

49 8. Aesthetic, cultural and natural values. The proposed
 subdivision will not have an undue adverse effect on the scenic
51 or natural beauty of the area, aesthetics, historic sites or rare

1 and irreplaceable natural areas or any public rights for physical
2 or visual access to the shoreline;

3
4 9. Conformity with local ordinances and plans. The
5 proposed subdivision conforms with a duly adopted subdivision
6 regulation or ordinance, comprehensive plan, development plan or
7 land use plan, if any. In making this determination, the
8 municipal reviewing authority may interpret these ordinances and
9 plans;

11 10. Financial and technical capacity. The subdivider has
12 adequate financial and technical capacity to meet the standards
13 of this section;

15 11. Surface waters; outstanding river segments. Whenever
16 situated entirely or partially within 250 feet of any pond, lake,
17 river or tidal waters, the proposed subdivision will not
18 adversely affect the quality of that body of water or
19 unreasonably affect the shoreline of that body of water.

21 A. When lots in a subdivision have frontage on an
22 outstanding river segment, the proposed subdivision plan
23 must require principal structures to have a combined lot
24 shore frontage and setback from the normal high-water mark
25 of 500 feet.

27 (1) To avoid circumventing the intent of this
28 provision, whenever a proposed subdivision adjoins a
29 shoreland strip narrower than 250 feet which is not
30 lotted, the proposed subdivision shall be reviewed as
31 if lot lines extended to the shore.

33 (2) The frontage and set-back provisions of this
34 paragraph do not apply either within areas zoned as
35 general development or its equivalent under shoreland
36 zoning, Title 38, chapter 3, subchapter I, article 2-B,
37 or within areas designated by ordinance as densely
38 developed. The determination of which areas are
39 densely developed must be based on a finding that
40 existing development met the definitional requirements
41 of section 4401, subsection 1, on September 23, 1983;

43 12. Ground water. The proposed subdivision will not, alone
44 or in conjunction with existing activities, adversely affect the
45 quality or quantity of ground water; and

47 13. Flood areas. The subdivider will determine, based on
48 the Federal Emergency Management Agency's Flood Boundary and
49 Floodway Maps and Flood Insurance Rate Maps, whether the
50 subdivision is in a flood-prone area. If the subdivision, or any
51 part of it, is in such an area, the subdivider shall determine
the 100-year flood elevation and flood hazard boundaries within

1 the subdivision. The proposed subdivision plan must include a
3 condition of plat approval requiring that principal structures in
5 the subdivision will be constructed with their lowest floor,
7 including the basement, at least one foot above the 100-year
9 flood elevation.

7 **§4405. Access to direct sunlight**

9 The municipal reviewing authority may, to protect and ensure
11 access to direct sunlight for solar energy systems, prohibit,
13 restrict or control development through subdivision regulations.
15 The regulations may call for subdivision development plans
17 containing restrictive covenants, height restrictions, side yard
19 and set-back requirements or other permissible forms of land use
21 controls.

17 **§4406. Enforcement; prohibited activities**

19 The Attorney General, the municipality or the planning board
21 of any municipality may institute proceedings to enjoin a
23 violation of this subchapter.

23 1. Sales or other conveyances. No person may sell, lease,
25 develop, build upon or convey for consideration, or offer or
27 agree to sell, lease, develop, build upon or convey for
29 consideration any land or dwelling unit in a subdivision which
31 has not been approved by the municipal reviewing authority of the
33 municipality where the subdivision is located and recorded in the
35 proper registry of deeds.

31 A. No register of deeds may record any subdivision plat or
33 plan which has not been approved under this subchapter.
35 Approval for the purpose of recording must appear in writing
37 on the plat or plan. All subdivision plats and plans
39 required by this subchapter must contain the name and
41 address of the person under whose responsibility the
43 subdivision plat or plan was prepared.

39 B. Whenever the initial approval or any subsequent
41 amendment of a subdivision is based in part on the granting
43 of a variance from any applicable subdivision approval
45 standard, that fact shall be expressly noted on the face of
47 the subdivision plan to be recorded in the registry of deeds.

45 (1) In the case of an amendment, if no amended plan is
47 to be recorded, a certificate shall be prepared in
49 recordable form and recorded in the registry of deeds.
51 This certificate shall:

51 (a) Indicate the name of the current property
53 owner;

1 (b) Identify the property by reference to the
3 last recorded deed in its chain of title; and

5 (c) Indicate the fact that a variance, including
7 any conditions on the variance, has been granted
 and the date of the granting.

9 (2) The variance is not valid until recorded as
11 provided in this paragraph. Recording must occur
 within 30 days of the final subdivision approval or the
 variance is void.

13 C. No building inspector may issue any permit for a
15 building or use within a land subdivision unless the
 subdivision has been approved under this subchapter.

17 D. Any person who sells, leases, develops, builds upon, or
19 conveys for consideration, offers or agrees to sell, lease,
21 develop, build upon or convey for consideration any land or
 dwelling unit in a subdivision which has not been approved
 under this subchapter shall be penalized in accordance with
23 section 4452.

25 2. Permanent marker required. No person may sell or convey
27 any land in an approved subdivision unless at least one permanent
29 marker is set at one lot corner of the lot sold or conveyed. The
 term "permanent marker" includes, but is not limited to, the
 following:

31 A. A granite monument;

33 B. A concrete monument;

35 C. An iron pin; or

37 D. A drill hole in ledge.

39 3. Utility installation. No public utility, water
41 district, sanitary district or any utility company of any kind
43 may install services to any lot or dwelling unit in a
45 subdivision, unless written authorization attesting to the
 validity and currency of all local permits required under this
 chapter has been issued by the appropriate municipal officials.
 Following installation of service, the company or district shall
 forward the written authorization to the municipal officials
 indicating that installation has been completed.

47 §4407. Revisions to existing plat or plan

49 Any application for subdivision approval which constitutes a
51 revision or amendment to a subdivision plan which has been
 previously approved shall indicate that fact on the application

1 and shall identify the original subdivision plan being revised or
2 amended.

3
4 - 1. Recording. If a subdivision plat or plan is presented
5 for recording to a register of deeds and that plat or plan is a
6 revision or amendment to an existing plat or plan, the register
7 shall:

8 A. Indicate on the index for the original plat or plan that
9 it has been superseded by another plat or plan;

10 B. Reference the book and page or cabinet and sheet on
11 which the new plat or plan is recorded; and

12 C. Ensure that the book and page or cabinet and sheet on
13 which the original plat or plan is recorded is referenced on
14 the new plat or plan.

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16
17
18 **SUBCHAPTER V**

19
20 **ENFORCEMENT OF LAND USE REGULATIONS**

21
22 **§4451. Training and certification for code enforcement officers**

23
24 1. Certification required; exceptions. Beginning January
25 1, 1993, a municipality may not employ any individual to perform
26 the duties of a code enforcement officer who is not certified by
27 the office, except that:

28 A. An individual has 12 months after beginning employment
29 to be trained and certified as provided in this section; and

30 B. Whether or not any extension is available under
31 paragraph A, the office may waive this requirement for up to
32 one year if the certification requirements cannot be met
33 without imposing a hardship on the municipality employing
34 the individual.

35 2. Penalty. Any municipality that violates this section
36 commits a civil violation for which a forfeiture of not more than
37 \$100 may be adjudged. Each day in violation constitutes a
38 separate offense.

39 3. Training and certification of code enforcement
40 officers. In cooperation with the Vocational-Technical Institute
41 System and the Department of Human Services, the office shall
42 establish a continuing education program for individuals engaged
43 in code enforcement. This program shall provide basic and
44 advanced training in the technical and legal aspects of code
45 enforcement necessary for certification, including, but not
46 limited to:

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- A. Plumbing inspection;
- B. Soils and site evaluation;
- C. Electrical inspection;
- D. State and federal environmental requirements;
- E. Zoning ordinances;
- F. Court techniques; and
- G. Other enforcement information.

4. Examination. The office shall conduct at least one examination each year to examine candidates for certification or recertification at a time and place designated by it. The office may conduct additional examinations to carry out the purposes of this subchapter.

5. Certification standards. The office shall establish by rule the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection shall identify standards for each of the areas of training under subsection 3, in addition to general standards that apply to all code enforcement officers.

6. Certification; terms; revocation. The office shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates are valid for 5 years unless revoked by the Administrative Court.

A. The Administrative Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 25, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

1 (3) The code enforcement officer is incompetent or
2 unable to perform properly the duties of the office.

3 B. Code enforcement officers whose certificates are
4 invalidated under this subsection may be issued new
5 certificates provided that they are newly certified as
6 provided in this section.

7 7. Other professions unaffected. This subchapter shall not
8 be construed to affect or prevent the practice of any other
9 profession.

10 §4452. Enforcement of land use laws and ordinances

11 1. Enforcement. A municipal official, such as a municipal
12 code enforcement officer, local plumbing inspector or building
13 inspector, who is designated by ordinance or law with the
14 responsibility to enforce a particular law or ordinance set forth
15 in subsection 5, may:

16 A. Enter any property at reasonable hours or enter any
17 building with the consent of the owner, occupant or agent to
18 inspect the property or building for compliance with the
19 laws or ordinances set forth in subsection 5. A municipal
20 official's entry onto property under this paragraph is not a
21 trespass;

22 B. Issue a summons to any person who violates a law or
23 ordinance which the official is authorized to enforce; and

24 C. When specifically authorized by the municipal officers,
25 represent the municipality in District Court in the
26 prosecution of alleged violations of ordinances or laws
27 which the official is authorized to enforce.

28 2. Liability for violations. Any person, including, but
29 not limited to, a landowner, the landowner's agent or a
30 contractor who violates any of the laws or ordinances set forth
31 in subsection 5 is liable for the penalties set forth in
32 subsection 3.

33 3. Civil penalties. The following provisions apply to
34 violations of the laws and ordinances set forth in subsection 5.
35 All monetary penalties are civil penalties.

36 A. The minimum penalty for starting construction or
37 undertaking a land use activity without a required permit is
38 \$100, and the maximum penalty is \$2,500.

39 B. The minimum penalty for a specific violation is \$100,
40 and the maximum penalty is \$2,500.

1 C. The violator may be ordered to correct or abate the
2 violations. When the court finds that the violation was
3 willful, the violator shall be ordered to correct or abate
4 the violation unless the abatement or correction will:

5 (1) Result in a threat or hazard to public health or
6 safety;

7 (2) Result in substantial environmental damage; or

8 (3) Result in a substantial injustice.

9 D. If the municipality is the prevailing party, it shall be
10 awarded reasonable attorney fees, expert witness fees and
11 costs, unless the court finds that special circumstances
12 make the award of these fees and costs unjust. If the
13 defendant is the prevailing party, the defendant may be
14 awarded reasonable attorney fees, expert witness fees and
15 costs as provided by court rule.

16 E. In setting a penalty, the court shall consider, but is
17 not limited to, the following:

18 (1) Prior violations by the same party;

19 (2) The degree of environmental damage that cannot be
20 abated or corrected;

21 (3) The extent to which the violation continued
22 following a municipal order to stop; and

23 (4) The extent to which the municipality contributed
24 to the violation by providing the violator with
25 incorrect information or by failing to take timely
26 action.

27 F. The maximum penalty may exceed \$2,500, but may not
28 exceed \$25,000, when it is shown that there has been a
29 previous conviction of the same party within the past 2
30 years for a violation of the same law or ordinance.

31 G. The penalties for violations of waste discharge licenses
32 issued by the municipality pursuant to Title 38, section
33 413, subsection 8, is as prescribed in Title 38, section 349.

34 4. Proceedings brought for benefit of municipality. All
35 proceedings arising under locally administered laws and
36 ordinances shall be brought in the name of the municipality. All
37 finances resulting from those proceedings shall be paid to the
38 municipality.

1 5. Application. This section applies to the enforcement of
2 land use laws and ordinances or rules which are administered and
3 enforced primarily at the local level, including:

4 A. The plumbing and subsurface waste water disposal rules
5 adopted by the Department of Human Services under Title 22,
6 section 42, including the land area of the State which is
7 subject to the jurisdiction of the Maine Land Use Regulation
8 Commission;

9 B. Laws pertaining to public water supplies, Title 22,
10 sections 2642, 2647 and 2648;

11 C. Local ordinances adopted pursuant to Title 22, section
12 2642;

13 D. Laws administered by local health officers pursuant to
14 Title 22, chapters 153 and 263;

15 E. Laws pertaining to fire prevention and protection, which
16 require enforcement by local officers pursuant to Title 25,
17 chapter 313;

18 F. Laws pertaining to the construction of public buildings
19 for the physically disabled pursuant to Title 25, chapter
20 331;

21 G. Local land use ordinances adopted pursuant to section
22 3001;

23 H. Local building codes adopted pursuant to sections 3001
24 and 3007;

25 I. Local housing codes adopted pursuant to sections 3001
26 and 3007;

27 J. Local ordinances regarding automobile junkyards pursuant
28 to chapter 183, subchapter I;

29 K. Local ordinances regarding electrical installations
30 pursuant to chapter 185, subchapter II;

31 L. Local ordinances regarding regulation and inspection of
32 plumbing pursuant to chapter 185, subchapter III;

33 M. Local ordinances regarding malfunctioning subsurface
34 waste water disposal systems pursuant to section 3428;

35 N. The subdivision law and local subdivision ordinances
36 adopted pursuant to section 3001 and subdivision regulations
37 adopted pursuant to section 4403;

1 O. Local zoning ordinances adopted pursuant to section 3001
2 and in accordance with section 4352;

3
4 P. Waste water discharge licenses issued pursuant to Title
5 38, section 413, subsection 8; and

6
7 O. Shoreland zoning ordinances adopted pursuant to Title
8 38, sections 435 to 447, including those which were
9 state-imposed.

11 CHAPTER 189

12 RIVER CORRIDOR COMMISSIONS

13
14
15 §4461. River corridor commissions encouraged

16
17 1. Findings. The Legislature finds that:

18
19 A. The effectiveness of local governments in implementing
20 their responsibilities under shoreland zoning can be
21 enhanced by coordination and cooperation among
22 municipalities;

23
24 B. River corridor commissions have proven their
25 effectiveness as one mechanism to bring about such
26 coordination and cooperation;

27
28 C. Additional river corridor commissions are not likely to
29 be formed without state encouragement and incentives; and

30
31 D. Such cooperation serves state interests as stated in
32 Title 12, section 402 and Title 38, chapter 3, subchapter I,
33 article 2-B.

34
35 2. Purpose. It is the policy of the State to encourage the
36 formation of river corridor commissions. The purpose of this law
37 is to:

38
39 A. Clarify the procedures for forming river corridor
40 commissions;

41
42 B. Delegate authority to the Commissioner of Conservation
43 to approve acceptable proposals to form the river corridor
44 commissions;

45
46 C. Grant additional powers to those river corridor
47 commissions beyond those provided for in chapter 115; and

48
49 D. Provide a portion of the funding for the operation of
50 the river corridor commissions.

1 §4462. Definitions

3 As used in this chapter, unless the context otherwise
4 indicates, the following terms have the following meanings.

5 1. Commission. "Commission" means a river corridor
6 commission granted approval by the commissioner under section
7 4463 and authorized by Title 5, chapter 379, or as established
8 under Title 38, chapter 6.

9 2. Commissioner. "Commissioner" means the Commissioner of
10 Conservation.

11 3. Department. "Department" means the Department of
12 Conservation.

13 §4463. Approval of river corridor commissions

14 The commissioner may grant commission status and all the
15 privileges and powers enjoyed by the commissions, as specified in
16 this chapter, when the commissioner finds that:

17 1. Occupation of shoreland by 2 or more municipalities.
18 Two or more municipalities, which collectively occupy enough of
19 the shoreland on a river segment to be effective in managing the
20 shorelands of the river, have entered into an agreement under
21 chapter 115, which satisfies the requirements of section 4464;

22 2. Comprehensive plan. The same municipalities have
23 prepared a comprehensive plan which satisfies the requirements of
24 section 4465;

25 3. Ordinance. The same municipalities have prepared an
26 ordinance to implement the comprehensive plan which satisfies the
27 requirements of section 4466; and

28 4. Other commissions. No other commission exists on the
29 same river, or the distance between the proposed and existing
30 commissions makes the formation of one larger commission
31 impractical.

32 §4464. Interlocal agreement

33 In addition to the requirements of section 2203, the
34 interlocal agreement must be consistent with rules adopted by the
35 commissioner under the Maine Administrative Procedure Act, Title
36 5, chapter 375. These rules may include, but are not limited to:

37 1. Minimum duration. The minimum duration of the agreement;

38 2. Members; appointment. How members may be appointed;

1 3. Municipal responsibilities for financing. What the
2 municipalities' responsibilities for financing the commission
3 are; and

4 4. Withdrawal. How and under what circumstances
5 municipalities may withdraw from the commission.
6

7
8 §4465. Comprehensive plan

9
10 The comprehensive plan must be consistent with rules adopted
11 by the commissioner under the Maine Administrative Procedure Act,
12 Title 5, chapter 375. These rules may include, but are not
13 limited to:

14 1. Resources; problems. What resources or problems the
15 plan must address;

16 2. Information; analyses. Information and analyses the
17 plan must contain; and

18 3. Specificity; clarity. The degree of specificity and
19 clarity sought in the plan.
20

21 §4466. Ordinance

22 The ordinance to implement the plan must be at least as
23 restrictive as the State's guidelines for municipal shoreland
24 zoning ordinances and shall supersede existing shoreland zoning
25 ordinances. The ordinance must contain adequate procedures for
26 processing permit requests and for considering appeals of a
27 decision made by the commission.
28

29 §4467. Powers of a river corridor commission

30 Notwithstanding section 2203, subsection 8, an approved
31 commission may:

32 1. Amendment to comprehensive plan. Amend the
33 comprehensive plan, after notice and hearing on the proposed
34 amendment in accordance with the Maine Administrative Procedure
35 Act, Title 5, chapter 375;

36 2. Adoption of rules or ordinances. Adopt and amend rules
37 or ordinances covering an area up to 500 feet from the normal
38 high-water mark necessary to implement the comprehensive plan,
39 after notice and hearing on the proposed amendment or adoption,
40 in accordance with the Maine Administrative Procedure Act, Title
41 5, chapter 375;

42 3. Issuance of permits. Issue permits, subject to
43 reasonable conditions for activities requiring permits, or may
44 deny permits under ordinances and rules adopted by the commission;
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1
2 4. Fees. Assess fees for permit or variance applications,
3 or for any publications of the commission;

4
5 5. Suit. Sue and be sued; and

6
7 6. Enforcement. Enforce the rules or ordinances of the
8 commission by instituting any lawful action, injunction or other
9 proceeding to prevent, restrain, correct or abate any violation
10 of its rules or ordinances, and may impose fines as permitted
11 under Title 38, chapter 3, subchapter I, article 2-A.

12 §4468. Commission budget; financing; staff

13
14 The commission shall prepare and submit to the commissioner
15 a biennial budget sufficient to cover its operating and other
16 expenses. Provided the commission continues to satisfy the
17 requirements of section 4463, the commissioner shall request
18 funds to match the funds raised by the commission. In no event
19 may the state contribution exceed \$25,000 for any one commission
20 in any year. The commission may accept contributions of any type
21 from any source to assist it in carrying out its assigned tasks,
22 and make any agreements with respect to the administration of
23 those funds, not inconsistent with the purpose of this law, that
24 are required as conditions precedent to receiving the funds,
25 federal or otherwise. Staff of the commission are not considered
26 employees of the State.

27
28 §4469. Appeals to Superior Court

29
30 Except where otherwise specified by law, any party or person
31 aggrieved by any order or decision of the commission may, within
32 30 days after notice of the filing of that order or decision,
33 appeal to the Superior Court by filing a notice of appeal stating
34 the grounds for appeal. The appeal shall be taken under Title 5,
35 section 11001.

36
37 Sec. 47. 30-A MRSA sub-pt. 7, as enacted by PL 1987, c. 737,
38 Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
39 9, is repealed.

40
41 Sec. 48. 30-A MRSA §5253, sub-§1, ¶E, as enacted by PL 1987, c.
42 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
43 and 9, is repealed and the following enacted in its place:

44 E. The designation of captured assessed value of property
45 within a tax increment financing district is subject to the
46 following limitations.

47
48 (1) The Commissioner of Economic and Community
49 Development shall adopt any rules necessary to allocate
50

1 or apportion the designation of captured assessed value
3 of property within tax increment financing districts in
 accordance with these limitations.

5 (2) Fifteen percent of the project costs for the
7 development program must be incurred within 9 months of
 the designation of the tax increment financing district
9 by the Commissioner of Economic and Community
11 Development. The development program must be completed
 within 5 years of the designation of the tax increment
13 financing district by the Commissioner of Economic and
 Community Development.

15 **Sec. 49. 30-A MRSA §5254, sub-§1, ¶A,** as enacted by PL 1987,
 c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989,
 c.c. 6 and 9, is repealed.

17 **Sec. 50. 30-A MRSA §5682** is enacted to read:

19 **§5682. State funds**

21 Effective July 1, 1990, each municipality shall accept funds
23 provided by the Legislature only upon an affirmative vote of its
 legislative body. Those municipalities holding a town meeting
25 shall include a separate article on the warrant for each category
 of state funding which shall read as follows: "Shall the town
27 vote to accept (category of funding) as provided by the Maine
 State Legislature?" The town shall indicate an estimate of the
29 amount to be received for each category of state funding on the
 warrant, but it does not have to be part of the article. Those
31 funds not accepted by any municipality shall remain with the
 State. This section applies to any town meeting held after
33 January 1, 1990.

35 **Sec. 51. 30-A MRSA §5772, sub-§9** is enacted to read:

37 9. Interest or dividend exemption from state taxation.
 Interest or dividends paid on general obligation securities
39 issued under this section are exempt from taxation within the
 State, whether or not such income is subject to taxation under
41 the United States Internal Revenue Code, as amended.

43 **Sec. 52. 30-A MRSA §6101,** as enacted by PL 1987, c. 737, Pt.
45 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
 is further amended to read:

47 **§6101. Membership**

49 The Board of Emergency Municipal Finance, as authorized by
51 Title 5, chapter 379, section 12004, subsection 8, and referred
 to in this chapter as the "board," shall be composed of the 3

1 persons who hold the offices of the Commissioner of Finance,
3 Treasurer of State and State Tax Assessor. The successor of any
5 person to any of these offices immediately becomes a member of
7 the board and the person who formerly held that office ceases to
9 be such a member. The person holding the office of State Tax
Assessor is the chairman chair of the board. The members of the
board shall be compensated according to the provisions of Title
5, chapter 379.

11 **Sec. 53. 30-A MRSA §6303**, as enacted by PL 1987, c. 737, Pt.
13 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
is repealed and the following enacted in its place:

15 **§6303. Planning and land use regulation**

17 A village corporation may enact planning and land use
19 regulation ordinances, subject to the same guidelines and
21 standards which apply to municipalities under chapter 187. When
a conflict exists between a land use regulation ordinance of a
village corporation and an ordinance of the municipality of which
it is a part, the municipal ordinance prevails.

23 **Sec. 54. 30-A MRSA §7001, sub-§4**, as enacted by PL 1987, c.
25 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
and 9, is further amended to read:

27 4. **Organization meeting.** At the time and place appointed
29 for meetings for the organization of plantations under
31 subsections 2 and 3, a moderator shall be chosen by ballot by the
33 voters present to preside at the meeting. The person to whom the
warrant was directed shall preside until the moderator is chosen
and sworn by that person. A clerk, 3 assessors, treasurer and
35 school committee shall be chosen by ballot and sworn by the
37 moderator or a ~~notary-public~~ dedimus justice. Other plantation
officers may be chosen by ballot or other method agreed on by
vote of the meeting and shall be sworn by the moderator or a
~~notary-public~~ dedimus justice.

39 **Sec. 55. 30-A MRSA §7059**, as enacted by PL 1987, c. 737, Pt.
41 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
is repealed and the following enacted in its place:

43 **§7059. Planning and land use regulation**

45 Plantations are subject to chapter 187 regarding planning
47 and land use powers and duties in the same manner as a town or
49 city, except as otherwise provided in chapter 187. Any planning
or land use ordinance related to buildings and equipment must
comply with section 7060.

51 **Sec. 56. 30-A MRSA §7060, sub-§1, ¶C**, as enacted by PL 1987,
c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL

1 1989, c.c. 6 and 9, is repealed and the following enacted in its
place:

3
5 C. Requiring persons, other than a dealer licensed by the
7 State with a sales tax certificate issued by the State Tax
9 Assessor, who intend to construct or locate in the
11 plantation new manufactured housing, as defined in section
13 4358, subsection 1, to provide:

15 (1) A bill of sale indicating the name, address,
17 dealer registration number and sales tax certificate
19 number of the person who sold or provided the
21 manufactured housing to the buyer locating the housing
23 in the plantation; or

25 (2) Certification of payment of the sales tax in
27 accordance with Title 36, section 1760, subsection 40
29 and Title 36, section 1952-B.

31 In any plantation which requires a permit for manufactured
33 housing, the permit is deemed to be not approved or valid
35 until payment of the sales tax has been certified with the
37 assessors or the Maine Land Use Regulation Commission.

39 **Sec. 57. 30-A MRSA §7060, sub-§2, ¶E,** as enacted by PL 1987, c.
41 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
43 and 9, is repealed and the following enacted in its place:

45 E. An appeal may be taken from any order issued by the
47 building inspector or from the licensing authority's refusal
49 to grant a permit.

51 (1) A person aggrieved by an order of the building
inspector or a permit applicant may appeal in writing
to the plantation assessors. At their next meeting
following receipt of the appeal, the plantation
assessors shall affirm, modify or set aside the
decision of the building inspector according to the
terms of the pertinent ordinance. They may permit a
variation from the terms of an ordinance when necessary
to avoid undue hardship, provided that there is no
substantial departure from the intent of the
ordinance. They may permit an exception to an
ordinance only when the terms of the exception have
been specifically set forth by the plantation. The
failure of the plantation assessors to issue a written
notice of their decision, directed to the applicant,
within 30 days from the filing of the appeal
constitutes a denial of the appeal. If a plantation
has by ordinance required that all such appeals be
taken to a board of appeals, the procedure shall be the

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same as in appeals directed to the plantation assessors, unless the plantation has provided otherwise.

(2) An appeal may be taken from the decision of the plantation assessors or the board of appeals as provided in section 2691, subsection 3, paragraph G.

PART B

Sec. 1. 10 MRSA c. 951, sub-c. VII, first 3 lines, are repealed and the following enacted in their place:

CHAPTER 953

REGULATION OF MOBILE HOME PARKS;

LANDLORD AND TENANT

Sec. 2. 10 MRSA §9091, first ¶, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

As used in this subchapter chapter, unless the context otherwise indicates, the following terms have the following meanings.

Sec. 3. 10 MRSA §9094, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§9094. Restrictions on sale or removal of mobile homes

1. Park acting as agent; advertising. No mobile home park owner or operator may:

A. Exact a commission or fee with respect to the price realized by the seller of the mobile home unless the park owner or operator has acted as agent for the mobile home owner in the sale under a written contract;

B. Require as a condition of tenancy or continued tenancy that a mobile home owner designate the park owner or operator or any other individual or agent to act as agent for the mobile home owner in the sale of the mobile home; or

C. Restrict in any manner the reasonable advertising for sale of any mobile home in that park, except that the mobile home owner shall notify the park owner or operator before placing a "for sale" sign or other form of advertising within the mobile home park.

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2. Rules. No mobile home park owner or operator may require a mobile home to be removed from the park except pursuant to a rule contained in the written copy of park rules given to the tenant under section 9097, subsection 4. The rules shall clearly describe the standards under which the park owner or operator may require a tenant to remove a mobile home from the park.

A. These standards shall specify, but are not limited to, fair and reasonable rules governing the conditions of:

- (1) Protective exterior coating or siding;
- (2) Roof;
- (3) Windows and doors;
- (4) Plumbing, heating and electrical systems;
- (5) Anchoring system;
- (6) Skirting around the base;
- (7) Steps and handrails;
- (8) Porches, decks or other additions to the home and the exterior structure;
- (9) Width of home, if less than 11 feet, 6 inches;
- (10) Aesthetic appearance;
- (11) Smoke detectors wired into the electrical system;
and
- (12) Other aspects of the structural safety or soundness of the home.

B. The park owner or operator has the burden of proof to show that the mobile home does not meet the standards of the rules adopted under this subsection.

C. No aesthetic standard may be applied against the mobile home if the standard relates to physical characteristics such as size, except as provided in paragraph A, subparagraph (9), original construction materials or color which cannot be changed without undue financial hardship to the mobile home owner.

D. Neither age of the mobile home nor the standards established under the National Manufactured Housing

1 Construction and Safety Standards Act of 1974, United States
2 Code, Title 42, Chapter 70, shall by themselves be a
3 sufficient standard for a park owner or operator to require
4 removal of a mobile home.

5
6 E. No mobile home park owner or operator may be liable for
7 any claim or any damages of any kind arising from the
8 presence in the park of a mobile home manufactured before
9 June 15, 1976.

11 F. The Manufactured Housing Board, in conjunction with the
12 State Fire Marshal, the Department of the Attorney General,
13 representatives of the manufactured housing industry,
14 representatives of mobile home park owners or operators and
15 representatives of mobile home owners and tenants, shall
16 develop recommendations concerning the standards for rules
17 covered by this subsection. The recommendations shall
18 include standards designed to ensure the safety of the
19 mobile home and its occupants, while being objective and
20 measurable to provide for enforcement. The recommendations
21 shall be made to the joint standing committees of the
22 Legislature having jurisdiction over legal affairs and
23 business legislation by January 15, 1990.

25 G. This subsection is repealed January 15, 1991.

27 3. Buyer's right of rescission. The buyer of a mobile home
28 located in a mobile home park may rescind the contract for the
29 purchase of the mobile home within 30 days of execution of the
30 contract if:

31
32 A. At the time of entering into the contract, the seller or
33 the seller's agent represented to the buyer or the buyer's
34 agent that the mobile home may remain in that mobile home
35 park; and

36
37 B. The buyer is not permitted to keep the mobile home in
38 that mobile home park or the buyer is not accepted as a
39 tenant in that mobile home park.

41 **Sec. 4. 10 MRSA §9097, sub-§1, ¶¶F and G,** as enacted by PL
42 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL
43 1989, c.c. 6 and 9, are further amended to read:

44 F. Condemnation or change of use of the mobile home park,
45 provided that, in the case of change of use, one year's
46 notice is given in writing to the tenant, unless at the
47 beginning of the tenancy the tenant is given notice of the
48 scheduled change of use;

49
50
51 G. Renovation or reconstruction of any portions of the
park, provided that 60 days' notice, in addition to any

1 other notice required by this section, is given in writing
2 to the tenant. In the case of a reconstruction which
3 changes the number of mobile homes which can be accommodated
4 on a lot or lots, other than that required by a state or
5 local governmental body, one year's notice shall be given in
6 accordance with paragraph F;

7
8 **Sec. 5. 10 MRSA §9097, sub-§5, ¶B,** as enacted by PL 1987, c.
9 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6
10 and 9, is further amended to read:

11 B. A written copy of this subchapter chapter.

12
13 **Sec. 6. 10 MRSA §9097, sub-§6,** as enacted by PL 1987, c. 737,
14 Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
15 9, is further amended to read:

16
17 6. **Enforcement.** In addition to any other remedy under this
18 subchapter chapter, any mobile home park resident may sue to
19 enforce any provision of this section and the court may award
20 damages or grant injunctive or other appropriate relief.

21
22 **Sec. 7. 10 MRSA §9097, sub-§7,** as enacted by PL 1987, c. 737,
23 Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
24 9, is further amended to read:

25
26 7. **Waiver prohibited.** No lease or rental agreement, oral
27 or written, may contain any provision by which the tenant waives
28 any rights under this subchapter chapter. Any such waiver is
29 contrary to public policy and unenforceable.

30
31 **Sec. 8. 10 MRSA §9097, sub-§9,** as enacted by PL 1987, c. 737,
32 Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and
33 9, is repealed.

34
35 **Sec. 9. 10 MRSA §9097, sub-§10** is enacted to read:

36
37 **10. Discrimination against tenants with children**
38 **prohibited. Discrimination against any tenant with children is**
39 **prohibited in accordance with Title 14, section 6027.**

40
41 **Sec. 10. 10 MRSA §9098, sub-§3, ¶B,** as enacted by PL 1987, c.
42 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6
43 and 9, is further amended to read:

44
45 B. A mobile home park operator who willfully retains a
46 security deposit in violation of this subchapter chapter is
47 liable for double the amount of that portion of the security
48 deposit wrongfully withheld from the tenant, together with
49 reasonable attorney's fees and court costs.

1 **Sec. 11. 10 MRSA §9100**, as enacted by PL 1987, c. 737, Pt. B,
 2 §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is
 3 further amended to read:

4 **§9100. Violations**

5 A violation of this subchapter ~~chapter~~ is a violation of
 6 Title 5, chapter 10, the unfair trade practices laws.

7 **Sec. 12. 12 MRSA §581, sub-§3, ¶A**, as enacted by PL 1987, c.
 8 737, Pt. B, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
 9 and 9, is further amended to read:

10 A. Before taking any action, the members of the committee
 11 formed under this subsection must be sworn before a notary
 12 public ~~dedimus justice~~. A certificate of the swearing shall
 13 be endorsed on the court's warrant.

14 **Sec. 13. 38 MRSA §411, first ¶**, as amended by PL 1987, c. 751,
 15 §12, is further amended to read:

16 The department may pay an amount not to exceed 80% of the
 17 expense of a municipal or quasi-municipal pollution abatement
 18 construction program or a pollution abatement construction
 19 program in an unorganized township or plantation authorized by
 20 the county commissioners. The department may make payments to the
 21 Maine Municipal Bond Bank to supply the State's share of the
 22 revolving loan fund established by Title 30 30-A, section 5171-A
 23 6006-A. The department may pay up to 90% of the expense of a
 24 municipal or quasi-municipal pollution abatement construction
 25 program or a pollution abatement construction program in an
 26 unorganized township or plantation authorized by the county
 27 commissioners in which the construction cost of the project does
 28 not exceed \$100,000 as long as total expenditures for the small
 29 projects do not exceed \$1,000,000 in any fiscal year and not more
 30 than one grant is made to any applicant each year, except that
 31 the department may pay up to 50% of the expense of individual
 32 projects serving seasonal dwellings or commercial establishments.
 33 The application for a grant under this paragraph for a project
 34 serving a single-family dwelling, including outbuildings, or a
 35 single commercial establishment, shall include a signed statement
 36 of the financial condition of the owner of the single-family
 37 dwelling or commercial establishment describing the need for the
 38 grant. That statement will become part of the application record
 39 and no further evidence of need will be required.

40 **PART C**

41 **Sec. 1. 4 MRSA §152, sub-§6, ¶¶M and N**, as repealed and
 42 replaced by PL 1987, c. 737, Pt. C, §§2 and 106, and as amended
 43

1 by PL 1989, c.c. 6 and 9, are repealed and the following enacted
in their place:

3

5 M. The subdivision law, Title 30-A, chapter 187, subchapter
IV; local subdivision ordinances enacted under Title 30-A,
7 section 3001; and subdivision regulations adopted under
Title 30-A, section 4403;

9

11 N. Local zoning ordinances enacted under Title 30-A,
section 3001, and in accordance with Title 30-A, section
4352;

13

15 **Sec. 2. 4 MRSA §807, first ¶,** as amended by PL 1987, c. 559, Pt.
B, §1, as repealed and replaced by PL 1987, c. 737, Pt. C, §§4
and §106, and as amended by PL 1989, c.c. 6 and 9, is repealed
and the following enacted in its place:

17

19 No person may practice law or hold that person out to
practice law within the State or before its courts, or demand or
21 receive any remuneration for those services rendered in this
State, unless that person has been admitted to the bar of this
23 State and has complied with section 806-A, or unless that person
has been admitted to try cases in the courts of this State under
25 section 802. Any person who practices law in violation of these
requirements is guilty of the unauthorized practice of law, which
27 is a Class E crime. This section shall not be construed to apply
to practice before any Federal Court by any person admitted to
29 practice therein; nor to a person pleading or managing that
person's own cause in court; nor to the officer or employee of a
31 corporation, partnership, sole proprietorship or governmental
entity, who is not an attorney, but is appearing for that
33 organization in an action cognizable as a small claim under Title
14, chapter 738; nor to a person who is not an attorney, but is
35 representing a municipality under Title 30-A, section 2671,
subsection 3; section 4221, subsection 2; section 4452,
37 subsection 1; or Title 38, section 441, subsection 2; nor to a
person who is not an attorney, but is representing the Department
39 of Environmental Protection under Title 38, section 342,
subsection 7; nor to a person who is not an attorney, but is
41 representing the Bureau of Employment Security or the Bureau of
Taxation under section 807-A; nor to a person who is not an
43 attorney, but is representing a party in any hearing, action or
proceeding before the Workers' Compensation Commission as
45 provided in Title 39, section 110-A. In all proceedings, the
fact, as shown by the records of the Board of Overseers of the
47 Bar, that that person is not recorded as a member of the bar
shall be prima facie evidence that the person is not a member of
the bar licensed to practice law in the State.

49

51 **Sec. 3. 5 MRSA §12004-G, sub-§12,** as enacted by PL 1987, c.
786, §5, is amended to read:

5 **Sec. 4. 22 MRSA §42, sub-§3**, as amended by PL 1987, c. 737,
Pt. C, §§64 and 106, and as amended by PL 1989, c.c. 6 and 9, is
7 further amended to read:

9 **3. Plumbing and subsurface waste water disposal.** The
department shall adopt minimum rules relating to plumbing and
11 subsurface sewage disposal systems and the installation and
inspection thereof consistent with Title 30-A, chapter 185,
13 subchapter III, and Title 32, chapter 49, but this does not
preempt the authority of municipalities under Title 30-A, section
15 3001, to adopt more restrictive ordinances; and shall hold
hearings on the first Tuesday of February of each year for the
17 purpose of considering changes in the rules pertaining to
plumbing and subsurface sewage disposal systems and the
19 installation and inspection thereof. These rules may regulate the
location of water supply wells to provide minimum separation
21 distances from subsurface sewage disposal systems. The department
may require a deed covenant or deed restriction when determined
23 necessary.

25 Any person who violates the rules adopted under this subsection,
or who violates a municipal ordinance adopted pursuant to Title
27 30-A, sections 4201 and 4211 or uses a subsurface waste water
disposal system not in compliance with rules applicable at the
29 time of installation or modification shall be penalized in
accordance with Title 30-A, section 4506 ~~4452~~. Enforcement of the
31 rules shall be the responsibility of the municipalities rather
than the department. The department or a municipality may seek to
33 enjoin violations of the rules or municipal ordinances. In the
prosecution of a violation by a municipality, the court shall
35 award reasonable attorney's fees to a municipality if that
municipality is the prevailing party, unless the court finds that
37 special circumstances make the award of these fees unjust.

39 **Sec. 5. 30-A MRSA c. 3, sub-c. I, art. 3**, as amended, is repealed.

41 **Sec. 6. Transition clause.** The following provisions apply to
the transition from the Maine Revised Statutes, Title 30 to Title
43 30-A.

45 **1. Personnel.** This Act does not affect the term or
appointment of any officer, official, employee or other personnel
47 of any county, municipality, plantation, village, quasi-municipal
corporation or any state agency, department or board governed by
49 any statute repealed or amended by this Act.

51 **2. Agreements, leases, contracts, authorizations or bonds.**
All agreements, leases, contracts, authorizations, notes or bonds

1 issued before the effective date of this Act under provisions
2 repealed or amended by this Act shall continue to be valid under
3 the terms of issuance until they expire or are rescinded, amended
4 or revoked.

5
6 **3. Ordinances, rules and regulations.** All ordinances,
7 rules and regulations enacted or adopted by any county,
8 municipality, plantation, village, quasi-municipal corporation or
9 any state agency, department or board under the authority of any
10 provision repealed or amended by this Act shall continue in force
11 until they are repealed, rescinded, amended or revoked.

12 **4. Dedicated revenues.** This Act shall not be construed to
13 change the status of any dedicated revenues. All dedicated
14 revenues existing prior to this Act shall not lapse because of
15 this Act, but shall be transferred to the funds of the same name
16 which are created by this Act.

17
18 **Sec. 7. Legislative intent.** It is the intent of the Legislature
19 that Parts A to C of this Act shall be considered as part of the
20 recodification of county and municipal law enacted by PL 1987,
21 chapter 737, and shall not in any way be considered to change or
22 revise the meaning or intent of prior law.

23
24 **Sec. 8. PL 1987, c. 737, Pt. C, §106,** as amended by PL 1989, c.c. 6
25 and 9, is further amended to read:

26
27 **Sec. 106. Effective date.** This Act shall take effect on
28 February 28, 1989 ~~and shall be retroactive to that date.~~

29
30 **Sec. 9. PL 1989, c. 9, §§3 and 4** are amended to read:

31
32 **Sec. 3. Transition and savings clause.** The following provisions
33 apply to the transition from the Maine Revised Statutes, Title 30
34 to Title 30-A, and to the transition between Public Law 1989,
35 chapter 6 and this Act.

36
37 **1. Personnel.** ~~This Act does not affect the term of~~
38 ~~appointment of any officer, official, employee or other personnel~~
39 ~~of any county, municipality, plantation, village, quasi-municipal~~
40 ~~corporation or any state agency, department or board governed by~~
41 ~~the Maine Revised Statutes, Titles 30 and 30-A. Any election,~~
42 appointment, hiring or other selection of any officer, official,
43 employee or other personnel of any county, municipality,
44 plantation, village, quasi-municipal corporation or any state
45 agency, department or board taken in compliance with the Maine
46 Revised Statutes, Title 30 or 30-A, between February 28, 1989,
47 and the effective date of this Act are ratified and validated.

48
49 **2. Agreements, leases, contracts, authorizations or bonds.**
50 All agreements, leases, contracts, authorizations, notes or bonds
51 issued under in compliance with the Maine Revised Statutes,

1 ~~Titles~~ Title 30 and or 30-A, before the effective date of this
2 Act shall continue to be valid under the terms of issuance until
3 they expire or are rescinded, amended or revoked.

5 3. **Ordinances, rules and regulations.** All ordinances,
6 rules and regulations enacted or adopted by any county,
7 municipality, plantation, village, quasi-municipal corporation or
8 any state agency, department or board ~~under the authority of~~ in
9 compliance with the Maine Revised Statutes, ~~Titles~~ Title 30 or
10 30-A shall continue in force until they are repealed, rescinded,
11 amended or revoked.

13 4. **Dedicated revenues.** This Act shall not be construed to
14 change the status of any dedicated revenues. All dedicated
15 revenues existing prior to this Act shall not lapse because of
16 this Act, but shall be transferred to the funds of the same name
17 which are created by this Act.

19 5. **Ratification.** All acts of any state, county or
20 municipal officer or official and of any governmental, municipal
21 or quasi-municipal entity taken in compliance with the Maine
22 Revised Statutes, ~~Titles~~ Title 30 and or 30-A, between February
23 28, 1989, and the effective date of this Act are ratified and
24 validated.

25 **Sec. 4. Legislative intent.** It is the intent of the Legislature
26 that this Act shall be considered a revision of the effective
27 date of certain laws concerning state and local government and
28 shall not in any way be considered to change or revise ~~the~~ any
29 other meaning or intent of those laws. It is the further intent
30 of the Legislature that this Act shall be liberally construed to
31 effectuate the purposes set forth in section 1 of this Act.

33 **Sec. 10. Effective date.** This Act shall be retroactive to
34 February 28, 1989.

37 PART D

39 **Sec. 1. 30-A MRSA §522,** as enacted by PL 1987, c. 737, Pt. A,
40 §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is
41 further amended to read:

43 §522. Membership, terms and compensation

45 The County Personnel Board shall be composed of ~~net-less-~~
46 ~~than 3 net-more-than~~ or 5 members who may not be county officers
47 or employees. The county commissioners shall appoint the
48 members. The term of office of the members is 3 years, except
49 that for the first appointment ~~one~~ approximately 1/3 of the
members shall be appointed for one year, ~~one~~ approximately 1/3

1 for 2 years and one the remainder for 3 years. Vacancies shall
2 be filled for the remainder of the term of the vacated
3 appointment. The board shall elect its own chairman chair
4 annually. The members may receive \$25 a day for the time
5 actually spent in the discharge of their duties and their
6 necessary expenses.

7
8 **Sec. 2. 30-A MRSA §2501**, as enacted by PL 1987, c. 737, Pt.
9 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
10 is repealed and the following enacted in its place:

11 **§2501. Applicability of provisions**

12
13 Except as otherwise provided by this Title or by charter,
14 the method of voting and the conduct of a municipal election are
15 governed by Title 21-A.

16
17 1. Clerk to perform duties of Secretary of State. When
18 Title 21-A applies to any municipal election, the municipal clerk
19 shall perform the duties of the Secretary of State prescribed by
20 Title 21-A.

21
22 2. Qualifications for voting. The qualifications for
23 voting in a municipal election conducted under this Title are
24 governed solely by Title 21-A, section 111.

25
26 **Sec. 3. 30-A MRSA §2552, sub-§2, ¶A**, as enacted by PL 1987, c.
27 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
28 and 9, is further amended to read:

29
30 A. Any city choosing a single assessor may adopt a board of
31 assessment review by vote of the city council at least 30 90
32 days before the annual city election.

33
34 **Sec. 4. 30-A MRSA §2552, sub-§2, ¶D**, as enacted by PL 1987, c.
35 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
36 and 9, is further amended to read:

37
38 D. Any city adopting a board of assessment review may
39 discontinue the board by vote of the city council at least
40 30 90 days before the annual city election, in which case
41 the board ceases to exist at the end of the municipal year.

42
43 **Sec. 5. 30-A MRSA §2671, sub-§2, ¶E**, as enacted by PL 1987, c.
44 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6
45 and 9, is further amended to read:

46
47 E. Arrest a person who travels beyond the limits of the
48 municipality in which the officer is appointed when in fresh
49 pursuit of that person. This paragraph applies to ~~felonies,~~
50 ~~misdemeanors~~ all crimes and traffic infractions. As used in
51 this paragraph:

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Section 10 incorporates provisions regarding the emergency 9-1-1 system enacted by Public Law 1987, chapter 840, section 4.

Section 11 incorporates provisions concerning volunteer parking enforcement programs enacted by Public Law 1987, chapter 828, section 1.

Section 12 repeals the Kennebec County Budget Advisory Committee which has previously been repealed by its own sunset clause.

Section 13 creates an exception from the general Title 30-A definition of "municipality" to recognize the special definition given that term under the Maine Municipal Bond Bank laws.

Section 14 corrects an improper cross-reference.

Section 15 makes a grammatical correction.

Section 16 clarifies a reference to the result of a citizen vote by using the same language as the actual question to be voted upon by the citizens.

Section 18 adds gender neutral language.

Sections 19, 21 and 22 restore the ability of a voter to use a sticker to vote for a write-in candidate for municipal office in a primary election. This provision was deleted in the recodification process under the mistaken belief that no municipality held primary elections.

Section 20 corrects a spelling error.

Section 23 incorporates provisions regulating conflicts of interest enacted by Public Law 1987, chapter 784, section 5.

Section 24 corrects an improper cross-reference.

Section 25 clarifies that the ability of the chair of a board of appeals to waive its hearing regulations is discretionary.

Section 26 corrects a spelling error.

Section 27 clarifies a reference to "equipment" by relating it to its immediate antecedents of "buildings, structures, mobile homes" and "travel trailers."

Section 28 clarifies that the owner of a building who fails to install roof guards to protect passers-by from falling ice and snow is "absolutely liable," meaning the owner is liable without

1 fault, and not "strictly liable," which technically refers to a
theory of product liability.

3

5 Section 29 incorporates amendments to the handicapped
parking law made by Public Law 1987, chapter 828, section 2 and
7 adds a cross-reference to the handicapped parking requirements of
the Maine Human Rights Act and redrafts the handicapped parking
9 provisions to restore a requirement that municipalities use signs
depicting the standard international symbol for accessibility, a
white wheelchair with an occupant on a blue background.

11

13 Section 30 replaces a reference to "public purpose" in the
municipal eminent domain law with a reference to "public use."
15 The term "public purpose" refers to the constitutional limitation
upon the expenditure of public funds; "public use" is the correct
17 term to refer to the constitutional limitation upon the exercise
of eminent domain.

19

Section 31 adds gender neutral language.

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Section 32 inserts an inadvertently omitted word.

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Section 33 inserts inadvertently deleted language.

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27 Section 34 clarifies a cross-reference to Title 30-A,
section 3606. That section does not contain any "hearing and
notice requirements" as described in current law. It provides an
29 appeal procedure for determinations made by a municipal rent
control administrator or board. This bill replaces the
misleading reference with a reference to a possible court appeal.

31

33 Sections 35 through 38 replace outdated references to an
innkeeper's "servants" with "employees."

35

37 Section 39 corrects a reference to the place of residence
"entered" in a hotel register for consistency with earlier
provisions.

39

41 Section 40 corrects a cross-reference to the subdivision law
and deletes the word "land" to reflect the recent amendments to
that law included in Part A, section 46 of this bill.

43

45 Section 41 updates an appeals provision which called for a
de novo court review of appeals from municipal building permit
47 decisions. This section was enacted by Public Law 1971, chapter
622, section 100, to parallel the appeal procedure for zoning
49 appeals at that time but was never amended to reflect the change
in zoning appeals accomplished by Public Law 1977, chapter 352,
which deleted the requirement of a de novo hearing for zoning
appeals. To avoid similar problems in the future, the zoning
51 appeals statute is cross-referenced to ensure that building

1 permit cases receive the same type of court appeal as is provided
for zoning cases.

3
5 Section 42 makes a correction to "absolutely liable" for the
same reasons as the change was made in Part A, section 28 of this
bill.

7
9 Section 43 moves a sentence from a subparagraph to the
general subsection provisions to clarify its general
applicability. It also adds an inadvertently omitted word and
11 identifies the property as the landowner's.

13 Section 44 incorporates the provisions of Public Law 1987,
chapter 860, section 1 regarding the transfer of shoreland
15 property.

17 Section 45 clarifies a cross-reference to the general
municipal appointment section. The cross-referenced provision
19 does not govern the "appointment" of individuals, but applies to
the swearing-in of the appointee and the recording of the
21 appointment.

23 Sections 46 and 47 repeal and replace Title 30-A, subpart 7,
Planning and Zoning, with a new subpart 6-A, Planning and Land
25 Use Regulation. This section incorporates the changes enacted by
the Growth Management Law, Public Law 1987, chapter 766; the
27 amendments to the subdivision law enacted by Public Law 1987,
chapters 810 and 885; the amendments regarding the location of
29 mobile homes enacted by Public Law 1987, chapter 770; and the
requirements regarding proof of payment of sales tax for mobile
31 homes enacted by Public Law 1987, chapter 647.

33 Sections 48 and 49 incorporate the changes to tax increment
financing districts enacted by Public Law 1987, chapter 772.

35 Section 50 incorporates the requirement enacted by Public
37 Law 1987, chapter 816, Part KK, section 22, and amended by Public
Law 1989, c. 13, that municipalities vote to accept funds
39 provided by the State.

41 Section 51 incorporates provisions enacted by Public Law
1987, chapter 873, which makes interest or dividends paid on
43 municipal general obligation securities exempt from taxation.

45 Section 52 inserts an omitted cross-reference.

47 Section 53 amends the village corporation zoning provisions
to update a cross-reference to the municipal planning and land
49 use regulation laws required by the changes made in Part A,
sections 46 and 47 of this bill.

51

1 Section 55 amends the plantation zoning provisions to
3 reflect the changes made by the enactment of the Growth
5 Management Law, Public Law 1987, chapter 766, and to update a
7 cross-reference to the municipal planning and land use regulation
9 laws required by the changes made in Part A, sections 46 and 47
11 of this bill.

13 Section 56 clarifies the requirement that proof of payment
15 of sales tax be presented before new manufactured housing can be
17 located in a plantation. This section makes it clear that this
19 requirement can be met by providing either a proper bill of sale
21 or certification of payment of the sales tax.

23 Section 57 corrects references to the "plantation officers"
25 by replacing it with the proper "plantation assessors." These
27 provisions govern appeals from decisions of the plantation's
29 building inspector. The parallel provisions for municipalities
31 provide for an appeal to the "municipal officers," generally the
33 selectmen or town council. "Plantation officers" is a broader
35 term and could include a plantation tax collector or constable,
37 which is clearly not the intent of the law.

39 This section also replaces the provision for a de novo
41 Superior Court hearing on appeal with a cross-reference to the
43 procedure for zoning appeals for the same reasons the change was
45 made in Part A, section 41 of this bill.

47 Part B of this bill makes the following changes.

49 Section 1 reallocates the mobile home park landlord-tenant
51 statute to a chapter separate from the Maine Revised Statutes
53 Title 10, chapter 951, the Manufactured Housing Act. The mobile
55 home park landlord-tenant statute had been moved to Title 10 as
57 part of the recodification of county and municipal laws in order
59 to consolidate all mobile home provisions in the same area of the
61 statutes. It was not intended, however, that the landlord-tenant
63 laws fall under the jurisdiction of the Manufactured Housing
65 Board, which has general authority to administer Title 10,
67 chapter 951. This bill reallocates the landlord-tenant
69 provisions to a separate chapter to avoid this result while still
71 consolidating the mobile home statutes under Title 10.

73 Sections 2, 5, 6, 7, 10 and 11 make technical changes
75 required by the reallocation accomplished in Part B, section 1 of
77 this bill.

79 Sections 3, 4, 8 and 9 incorporate changes in the mobile
81 home park landlord-tenant laws enacted by Public Law 1987,
83 chapter 770.

85 Section 12 incorporates changes to references to "notary
87 public" as enacted by Public Law 1987, chapter 736.

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Section 13 corrects an improper cross-reference.

Part C of the bill corrects several cross-references, repeals the Aroostook County Budget Committee law which was repealed from Title 30 by its own sunset provision on September 30, 1988, and adds a transition clause and legislative intent section to clarify that this bill should be interpreted as part of the recodification of county and municipal laws.

Part C, section 8 deletes superfluous language from the effective date section of the recodification. It is technically impossible for a law to be made retroactive to its effective date. Since the recodification was amended by Public Law 1989, chapter 9, to take effect on a date which had already passed, the law applies retroactively on its own accord without the express language.

Part C, section 9 amends the transition and savings clause of Public Law 1989, chapter 9. These amendments clarify that the law does apply to ratify any elections or appointments of any governmental entity which is governed by the laws recodified under Public Law 1987, chapter 737, as amended, and which occurred between February 28, 1989 and the effective date of Public Law 1989, chapter 9. The amendments also clarify that any acts which were taken in compliance with either the former Title 30 or the recodified Title 30-A, regardless of whether either law was in effect and applicable to those actions when taken, are ratified and validated by the law. The purpose of these amendments is to limit any potential adverse effect from the confusion over the effective date of the recodification and, as much as possible, to reach the same result as if the transition to Title 30-A had originally occurred on February 28, 1989.

Part C, section 10, provides for retroactive application to February 28, 1989, the effective date of the recodification law.

Part D of the bill makes 5 substantive corrections to the county and municipal laws. These changes are not part of the recodification process which contains only technical changes. The changes in Part D are intended to effect substantive corrections in current law. Part D corrects provisions relating to a county personnel board by requiring the board to be composed of an odd number of members and by clarifying the terms of initial appointments if a 5-member board is selected by the county. Part D also requires cities to select whether they will have a single assessor or a board of assessment review at least 90 days before the annual city election to maintain consistency with other preelection requirements for towns. Finally, Part D replaces references to "felonies" and "misdemeanors" with references to "Class A, Class B and Class C crimes" and "Class D

1 and Class E crimes" respectively since the criminal code no
longer uses the terms felony or misdemeanor.

3
4 Part D, section 2 of the bill clarifies that the municipal
5 clerk will perform the duties prescribed for the Secretary of
6 State by the Maine Revised Statutes, Title 21-A, when that Title
7 applies to a municipal election.

9 Finally, the bill is made to apply retroactive to February
10 28, 1989, to coincide with the effective date of the county and
11 municipal law recodification.