MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1613

H.P. 1159

House of Representatives, May 10, 1989

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

EDWIN H. PERT, Clerk

Presented by Representative MICHAUD of East Millinocket. Cosponsored by Representative HIGGINS of Scarborough.

STATE OF MAINE

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

An Act to Clarify Provisions of the Subdivision Law.



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

- Sec. 1. 30-A MRSA §4401, sub-§4, ¶C, as enacted by PL 1989, c. 104, Pt. A, §45, is amended to read:
- C. A lot of 40 or more acres shall not be counted as a lot, except:
 - (1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreline zoning ordinance; or
 - (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreline zoning ordinance.
 - Sec. 2. 30-A MRSA §4551, sub-§2, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:
 - In all instances, the burden of proof is upon the persons proposing the subdivisions. In issuing decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in paragraph C. addition, whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any of the applicable subdivision approval standards, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the local registry of deeds or, in the case of an amendment if no amended plan is to be recorded, a certificate indicating the name of the current property owner, identifying the property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting shall be prepared in recordable form and shall be recorded in the local registry of deeds within 30 90 days of the final subdivision approval or the variance shall be invalid. rights may accrue to the variance recipient recipient's heirs, successors or assigns unless the recording is made within the 30 90 days.

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This bill makes a number of changes and corrections to the subdivision law.

The first change in the first part of the subdivision law is to clarify that the shoreland zone reference is not limited to the shoreland area defined in the Maine Revised Statutes, Title 38, section 435, for purposes of the 40-acre lot exemption. Any lots that are contained within the shoreland zone as defined in Title 38, section 435, must be the subject of a subdivision review; however, a number of municipalities have a definition of the shoreland zoning area that includes other land than that which is included within the definition in Title 38, section 435. The purpose of the change in this law is to clarify that all of the shoreland area as defined by local ordinance must be reviewed to determine whether a 40-acre lot is exempt from review or whether it is the subject of review.

The second change proposed to the subdivision law is to expand the time for filing any variance that relates to a subdivision approval from 30 days to 90 days from the date upon which the plan is approved. The additional time will make certain that a plan's approval and any variance related to it are not lost due to inadvertence on the part of either the applicant or the municipality. Nothing will prevent the applicant from filing the plan in less than 90 days.