

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 214

H.P. 144

House of Representatives, January 30, 1991

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MICHAUD of East Millinocket.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act Regarding the State's Environmental Policy on Low-density  
Subdivisions.**

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

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38 MRSA §488, sub-§5, ¶B, as enacted by PL 1989, c. 769, §6,  
4 is amended to read:

6 B. A development that consists only of a subdivision if:

8 (1) The average density of the subdivision is not  
9 higher than one lot for every 5 acres of developable  
10 land in the parcel;

12 (2) The developable land in the parcel totals 200  
13 acres or less and at least 50% of the developable land  
14 in the parcel is preserved in perpetuity through  
15 conservation easements pursuant to Title 33, chapter 7,  
16 subchapter VIII-A, ~~in units no smaller than 10 acres in  
17 size and of such dimensions as to accommodate within  
18 each unit boundary a rectangle measuring 250 feet by  
19 500 feet;~~

20 (3) The conservation easements preserve the land in an  
21 essentially undeveloped natural state including the  
22 preservation of farmland having a history of  
23 agricultural use and the preservation of forest land  
24 for harvesting by uneven-aged selection methods  
25 designed to retain the natural character of the area,  
26 except that other methods of harvesting are permissible  
27 following a natural disaster;

30 (4) The conservation easements grant a 3rd-party right  
31 of enforcement, as defined in Title 33, section 476, to  
32 the department. The conservation easement may be held  
33 by any holder as that term is defined in Title 33,  
34 section 476. The conservation easements granting a  
35 3rd-party right of enforcement must be submitted to and  
36 accepted by the commissioner;

38 (5) All significant wildlife habitat that is mapped or  
39 that qualifies for mapping under section 480-B,  
40 subsection 10 is included in the preserved land area  
41 under subparagraph (3);

42 (6) No clearing, grading, filling or other development  
43 activity occurs on sustained slopes in excess of 30%;

44 (7) If the developable land in the parcel not subject  
45 to the requirements of subparagraphs (3) and (5) is  
46 located wholly or in part in the watershed of any lake  
47 or pond classified GPA under section 465-A, long-term  
48 measures to control phosphorus transport are taken in  
49 accordance with a phosphorus control plan that is  
50

2 consistent with standards for phosphorus control  
adopted by the board;

4 (8) Soil erosion and sedimentation during development  
of the subdivision is controlled in accordance with a  
6 plan approved by the municipality in which the  
subdivision is located or by the soil and water  
8 conservation district for the county in which the  
subdivision is located;

10 (9) The nonpreserved, developable land in the parcel  
12 is not located wholly or partly within the shoreland  
zone of a lake or pond classified GPA under section  
14 465-A; and

16 (10) At the time all necessary conservation easements  
are filed with the department and at least 30 days  
18 prior to the commencement of clearing and construction  
activity, the person creating the subdivision notifies  
20 the commissioner in writing on a form supplied by the  
commissioner that the exemption afforded by this  
22 paragraph is being used. The person creating the  
subdivision shall file with that form a set of site  
24 plans, including the plans required under subparagraphs  
(7) and (8), ~~and other evidence sufficient to~~  
26 ~~demonstrate that the requirements of this paragraph~~  
have been met. The commissioner shall forward a copy  
28 of the form to the municipality in which the  
subdivision is located within 15 days of receipt of the  
30 completed exemption form.

32 For purposes of this paragraph, "developable land in the  
parcel" means all contiguous land in the same ownership  
34 except for coastal wetlands, freshwater wetlands, rivers,  
streams and brooks as defined in section 480-B and except  
36 for any surface water classified GPA under section 465-A.

38  
40 **STATEMENT OF FACT**

42 The bill amends the low-density subdivision exemption added  
to the site location of development laws during the 114th  
Legislature. The bill eliminates certain dimensional  
44 requirements of the existing law and explicitly authorizes any  
qualified easement holder to hold easements employed to meet the  
46 requirements of the exemption. The bill also requires the  
Commissioner of Environmental Protection to forward a copy of the  
48 exemption application to the appropriate municipality within 15  
days of receipt of a completed exemption application.  
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