

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1776

H.P. 1218

House of Representatives, May 3, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

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

EDWIN H. PERT, Clerk

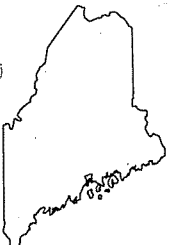
Presented by Representative BAILEY of Township 27.

Cosponsored by Senator LUDWIG of Aroostook, Senator VOSE of Washington and Representative TOWNSEND of Eastport.

STATE OF MAINE

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

**An Act Concerning Indian Territory under the Maine Indian Claims
Settlement Laws.**



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

4 **Sec. 1. 12 MRSA §682, sub-§1,** as amended by PL 1973, c. 569,
§2, is further amended to read:

6 **1. Unorganized and deorganized areas.** Unorganized and
8 deorganized areas shall include all areas located within the
jurisdiction of the State of Maine, except areas located within
10 organized cities and towns, and Indian reservations and
Passamaquoddy Indian territory as defined in Title 30, section
6205.

12 **Sec. 2. 30 MRSA §6206, sub-§1-A** is enacted to read:

14 **1-A. Passamaquoddy Indian Reservation land use.** Control of
16 land use within the Passamaquoddy Indian Reservation as defined
in section 6203, subsection 5, rests with the Passamaquoddy Tribe
18 and is not subject to regulation by the State.

20 **Sec. 3. 38 MRSA §482, sub-§5, ¶E,** as repealed and replaced by
PL 1987, c. 812, §§7 and 18, is amended to read:

22 **E.** Unless intended to circumvent this article, the
24 following transactions shall may not be considered lots
offered for sale or lease to the general public:

26 (1) Sale or lease of lots to an abutting owner or to a
28 spouse, child, parent, grandparent or sibling of the
developer; ~~or~~

30 (2) Personal, nonprofit transactions, such as the
32 transfer of lots by gift or devise; and

34 (3) Sale or lease of property within Passamaquoddy
Indian territory as defined in Title 30, section 6205
36 to a member or members of the Passamaquoddy Tribe; and

38 **Sec. 4. 38 MRSA §482, sub-§6,** as amended by PL 1987, c. 812,
40 §§8 and 18, is further amended to read:

42 **6. Structure.** A "structure" shall ~~mean~~ means:

44 **A.** A building or buildings on a single parcel constructed
or erected with a fixed location on or in the ground or
46 attached to something on or in the ground which occupies a
ground area in excess of 60,000 square feet or contains a
total floor area of 100,000 square feet or more; or

48 **B.** Parking lots, roads, paved areas, wharves or areas to be
50 stripped or graded and not to be revegetated which causes a
total project, including any buildings to occupy a ground
52 area in excess of 3 acres.

2 Within Passamaquoddy Indian territory as defined by Title 30,
3 section 6205, a "structure" may only be construed to apply to
4 adjoining buildings and ancillary development designed for and
5 devoted to a common or interdependent use.

6
7 **Sec. 5. Effective date.** Section 2 of this Act is not effective
8 unless, within 60 days of the adjournment of the Legislature, the
9 Secretary of State receives written notification by the Joint
10 Tribal Council of the Passamaquoddy Tribe that the tribe has
11 agreed to the provisions of section 2 of this Act pursuant to 25
12 United States Code, Section 1725(e)(1), copies of which must be
13 submitted by the Secretary of State to the Secretary of the
14 Senate and the Clerk of the House of Representatives; provided
15 that in no event may section 2 of this Act become effective until
16 90 days after adjournment of the Legislature.

17

18 STATEMENT OF FACT

19

20 Common ownership of the lands within their respective Indian
21 territories by the Passamaquoddy Tribe and the Penobscot Nation,
22 and their ownership in trust for the tribes in perpetuity, are
23 unique in Maine. This bill resolves an ambiguity with respect to
24 the municipal status under state law conferred upon the
25 Passamaquoddy Tribe in the land claims settlement legislation
26 enacted in 1980. The bill gives Passamaquoddy Indian territory
27 the same status as lands within any municipality in existence
28 before the formation of the Maine Land Use Regulation
29 Commission. The bill also places regulatory authority for
30 reservation land use control, including freshwater wetlands, with
31 the Passamaquoddy tribal government. Regulation of the
32 off-reservation environment, such as water or air pollution, is
33 unaffected by this change. Definitions of certain development
34 activities in the Department of Environmental Protection laws are
35 amended to exclude tribal development activity that would not be
36 regulated in the absence of this unusual pattern of tribal land
37 ownership.
38