

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2243

H.P. 1589

House of Representatives, January 28, 1992

Submitted by the Department of Conservation pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Senator LUDWIG of Aroostook and Representative LOOK of Jonesboro.

STATE OF MAINE

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

**An Act to Clarify the Zoning Provisions Administered by the Maine
Land Use Regulation Commission.**

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

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6 **Whereas,** current law considers changes in land use districts
and resulting zoning maps as rule-making proceedings; and

8 **Whereas,** current law requires each state agency to issue a
regulatory agenda that lists rules that the agency expects to
10 propose prior to the next regulatory agenda due date; and

12 **Whereas,** site-specific zoning petitions are filed with the
Maine Land Use Regulation Commission each year by landowners, at
14 times suitable to their purposes; and

16 **Whereas,** delay in acting upon citizen petitions may result
in undue financial hardships to individuals and private
18 enterprise development; and

20 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
22 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
24 safety; now, therefore,

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

28 **12 MRSA §685-A, sub-§7,** as amended by PL 1989, c. 810, §1,
is further amended by amending the 5th paragraph to read:

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32 At hearings, interested owners, lessees, officials, agencies and
individuals may appear and be heard. They are allowed at least
34 10 days after the close of the public hearing, or within such
longer time period as the commission may direct, to file written
36 statements with the commission. Except as provided in this
chapter, any hearings required or authorized under this
38 subsection or subsection 8 must be conducted in accordance with
the requirements for rulemaking set forth in Title 5, chapter
40 375, subchapter II; provided that the requirements of Title 5,
section 8052, subsections 5, 5-A and 7; section 8053-A; section
42 8056, subsections 1, 3 and 4; section 8056-A; section 8057,
subsection 2; and sections 8057-A, 8060 and, 8062 and 8064 do
not apply to these procedures.

44 **Emergency clause.** In view of the emergency cited in the
46 preamble, this Act takes effect when approved.

STATEMENT OF FACT

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Changes in land use districts, zoning changes and resulting zoning maps are technically considered rulemaking under state law. As such, the current requirement under the Maine Administrative Procedure Act that all proposed rules must be placed in advance on an agency regulatory agenda applies to zoning petitions received by the Maine Land Use Regulation Commission, or LURC. This bill exempts LURC zoning petitions from that requirement. LURC zoning requirements, which are essentially related to permitting and not associated with the general rule-making activity of the commission, are not appropriate for inclusion on the agency's regulatory agenda for proposed rules.