

MAINE STATE LEGISLATURE

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UP
OK

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 307, L.D. 395, Bill, "An Act to Grandfather Property under Certain Environmental Laws"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSA §439-A, sub-§7 is enacted to read:

7. Special exception. A municipal ordinance adopted pursuant to this article may include a provision for the municipal planning board to issue a permit for construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all of the following conditions are met.

A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

B. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

C. The proposed location of all buildings, sewage disposal systems and other improvements are:

(1) Located on natural ground slopes of less than 20%; and

(2) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and

COMMITTEE AMENDMENT

Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be 1/2 the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot in height and "velocity zone" means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

D. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

E. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to moderate-value and high-value wetlands.'

STATEMENT OF FACT

This amendment permits a municipality to include a special exception provision in its shoreland zoning ordinances to permit a person to build a single-family home on a lot in a Resource Protection District. To qualify for the special exception, the person must have purchased and recorded the lot before formation of the Resource Protection District and certain other standards such as a minimum setback and protection of the 100-year floodplain must be met. The planning board of the municipality would review the application for this special exception and would be permitted to issue a permit if the construction meets the terms of the special exception provision. A municipality is not required to adopt this special exception provision.