

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

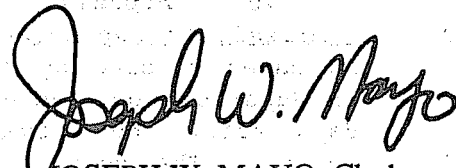
No. 1080

H.P. 794

House of Representatives, March 30, 1993

An Act to Clarify Mandatory Accessible Waiver Authority.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative COTE of Auburn.
Cosponsored by Senator CONLEY of Cumberland and
Representatives: FARNSWORTH of Hallowell, KETTERER of Madison, Senator: BERUBE of
Androscoggin.

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

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Sec. 1. 5 MRSA §4594-D, sub-§9, as amended by PL 1991, c. 99, §26, is repealed and the following enacted in its place:

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9. Waivers; variance. Builders of facilities governed by subsection 7 may file a petition with the commission requesting a waiver or variance of the standards of construction. Petitions for waivers or variances for buildings covered by mandatory plan review are heard by a single representative of the commission designated by the members of the commission and a designee of the Office of the State Fire Marshal.

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If the commission's representative determines in cases covered by mandatory plan review that compliance with this section and rules adopted by the commission is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the commission's representative may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance. The decision of the commission's representative must be provided in writing to the party requesting the waiver or variance.

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Sec. 2. 5 MRSA §4594-D, sub-§10, as enacted by PL 1989, c. 795, is amended to read:

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10. Appeals. ~~Commission--decisions~~ Decisions of the commission's representative on requests for waivers or variances in cases covered by mandatory plan review are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the ~~commission~~ commission's representative, or it may remand the proceeding to the commission for such further action as the court may direct.

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STATEMENT OF FACT

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A reading of the current law governing hearings for waivers or variances for required accessibility under the Maine Human Rights Act requires that there be a decision of the Maine Human Rights Commission on these waivers. This bill clarifies the language so that a designated representative of the commission is responsible for the decision.

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