

# MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 864, L.D. 1173, Bill, "An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes"

Amend the bill by striking out all of section 3 and inserting in its place the following:

Sec. 3. 30-A MRSA §4352, sub-§9, as enacted by PL 1991, c. 504, §2, is amended to read:

9. **Notice and hearing in rezoning.** Before any ~~property is rezoned~~ the adoption of a zoning ordinance or map or the amendment of an existing zoning ordinance or map, the municipal reviewing authority or the municipal officers shall conduct a public hearing as required by subsection 1. Notice of this hearing must:

A. Be posted in the municipal office at least 14 days before the public hearing;

B. Be published at least 2 times in a newspaper having that complies with the provisions of Title 1, section 601 and that has a general circulation in the municipality,--~~the~~. The date of the first publication must be at least 7 days before the hearing;

C. For each parcel in and abutting the area ~~to be rezoned~~ to which the ordinance applies, be mailed by first-class mail at least 14 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. A municipality shall maintain a list of names and addresses of those persons to whom a notice is mailed under this paragraph. The municipal officials shall

2 prepare and file with the municipal clerk a written  
3 certification indicating the person to whom the notice was  
4 mailed, when it was mailed, by whom it was mailed and from  
5 what location it was mailed. A notice must be sent under  
6 this paragraph only--if--the--reasoning if the ordinance or  
7 amendment, including ordinances or amendments adopted under  
8 chapter 187, subchapter II or Title 38, chapter 3,  
9 subchapter I, article 2-B, is a change of use that permits  
10 industrial, commercial or retail development in a zone where  
11 such uses were--previously are currently prohibited or that  
12 prohibits all such uses in a zone where previously currently  
13 permitted. Notice under this paragraph is not required for  
14 any other type of proposed zoning ordinance,--including  
15 overlay-zoning-ordinances-or-any-type-of-zoning-ordinaees  
16 required-under-section-4343,-subsection-1-B; and

17 D. Contain a copy of a map indicating the property to be  
18 rezoned.

19 Failure of a municipality to send the required notice or of an  
20 appellant to receive a notice sent by a municipality in  
21 accordance with paragraph C does not invalidate an ordinance or  
22 any provision of an ordinance,--however,--any-person-entitled-to  
23 receive-a-notice-of-a-zone-change-under-paragraph-C-who-does-not  
24 receive-such-a-notice-may appeal the decision of the municipality  
25 to-adopt-the-zoning-ordinance-to-the-Superior-Court-within-30  
26 days--after-the-adoption-of-the-zoning-ordinance. Any action  
27 challenging the validity of an ordinance or map based on a  
28 municipality's failure to comply with this subsection must be  
29 brought in Superior Court within 30 days after the adoption of  
30 the ordinance. The Superior Court may invalidate a-zoning an  
31 ordinance or-any-provision-of-a-zoning-ordinance, a map or an  
32 amendment if the appellant demonstrates that the appellant was  
33 entitled to receive a notice under paragraph C, that the  
34 municipality failed to send the notice as required, that the  
35 appellant had no knowledge of the proposed zoning--change  
36 ordinance, map or amendment and that the appellant was materially  
37 prejudiced by that lack of knowledge.'

## 40 STATEMENT OF FACT

41 This amendment replaces section 3 of the bill. The  
42 amendment requires municipalities to use first-class mail to  
43 notify abutters to an area that would be affected by the adoption  
44 or amendment of a zoning ordinance or map. The amendment also  
45 clarifies that the notification requirements apply to ordinances  
46 or maps adopted or amended under the growth management laws or  
47 the mandatory shoreland zoning laws.