

MAINE STATE LEGISLATURE

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MAJORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 324, L.D. 445, Bill, "An Act to Change Certain Provisions of the Saco River Corridor Law"

Amend the bill by striking out all of the emergency preamble.

Further amend the bill by striking out all of section 1.

Further amend the bill in section 3 by striking out all of subsection 17-A (page 2, lines 5 to 11 in L.D.) and inserting in its place the following:

'17-A. Tributary stream. "Tributary stream" means a channel between defined banks and associated flood plain wetlands. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if not available, a 15-minute series topographic map.

B. It contains or is known to contain water flowing continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

2 D. The channel contains aquatic animals such as fish,
3 aquatic insects or mollusks in the water or, if no surface
4 water is present, within the stream bed.

5 E. The channel contains aquatic vegetation and is
6 essentially devoid of upland vegetation.

7 "Tributary stream" does not mean a ditch or other drainage way
8 constructed and maintained solely for the purpose of draining
9 storm water, nor does it mean a grassy swale.'

10 Further amend the bill by striking out all of section 4 and
11 inserting in its place the following:

12 'Sec. 4. 38 MRSA §953, as enacted by PL 1979, c. 459, §1, is
13 amended to read:

14 **§953. Saco River Corridor established**

15 There is hereby created the Saco River Corridor, herein
16 referred to as the "corridor," which ~~shall include~~ includes the
17 Saco River from the landward side of the rock jetty in Saco Bay
18 to the New Hampshire border; the Ossipee River from its
19 confluence with the Saco River to the New Hampshire border; and
20 the Little Ossipee River from its confluence with the Saco River
21 to the New Hampshire border at Balch Pond.

22 The corridor ~~shall also include~~ includes the lands adjacent
23 to these rivers to a distance of 500 ~~250~~ feet as measured on a
24 horizontal plane from the normal or mean high water line of these
25 rivers or to the edge of the 100-year floodplain if that extends
26 beyond 500 ~~250~~ feet, up to a maximum of 1,000 feet.'

27 Further amend the bill by striking out all of section 8 and
28 inserting in its place the following:

29 'Sec. 8. 38 MRSA §957-B, sub-§3, ¶E, as enacted by PL 1979, c.
30 459, §1, is amended to read:

31 E. ~~Single--family~~ Single-family residences and accessory
32 structures meeting all of the following performance
33 standards:

34 (1) The minimum lot frontage on the river measured at
35 the normal or mean high water line ~~shall-be~~ is 100 feet;

36 (2) The minimum setback of any building ~~from-the-river~~
37 ~~shall-be~~ is 100 feet from the normal or mean high water
38 line of the river and is 75 feet from the normal or
39 mean high water line of any tributary stream;

2 (3) The combined river frontage and setback of any
4 building ~~shall be~~ is not less than 500 350 feet;

6 (4) The structures and fill ~~shall~~ do not encroach on
the 100-year floodplain;

8 (5) Where there is an accepted road or public ~~right-of~~
10 way right-of-way, as of March 19, 1974, within 500 250
12 feet of the normal or mean high water mark of the river
14 with different land ownership on either side of the
road or public ~~right-of-way~~ right-of-way, the landowner
on the far side of the road or public ~~right-of-way~~
16 right-of-way from the river ~~shall have~~ has an aggregate
of setback from the river and frontage on the far side
to 500 250 feet;

18 (6) Where there is a recorded subdivision, as of March
20 19, 1974, "frontage," for the purposes of determining
22 compliance with this section, ~~shall mean~~ means lot
frontage on the side of the lot nearest to and most
nearly parallel to the river; and

24 (7) Where a landowner, as of March 19, 1974, owns a
26 lot abutting land owned by a public utility, and ~~such~~
28 the public utility land lies between the abutting
landowners ~~landowner's~~ lot and the river, "frontage,"
30 for the purpose of determining compliance with this
section, ~~shall mean~~ means the frontage on the side of
32 the lot abutting ~~such~~ that public utility land which
that is nearest to and most nearly parallel to the
river;

34 Further amend the bill by inserting after section 9 the
36 following:

38 'Sec. 10. 38 MRSA §958, first and last ¶¶, as enacted by PL 1979,
c. 459, §1, are amended to read:

40 Any existing building or structure or use of a building or
42 structure lawful March 19, 1974, or on the date of any subsequent
amendment of this chapter or of any regulation adopted hereunder,
44 may continue although such a use of a structure does not conform
to this chapter or the regulations adopted hereunder. Any
46 existing building or structure may be repaired, maintained and
improved, but an existing building, structure or nonconforming
48 use may be extended, expanded or enlarged only by permit from the
commission. A nonconforming use, other than a single family
50 residential use, which that is discontinued for any reason for a

period of one year ~~shall-be~~ is deemed abandoned and may not be resumed thereafter except in compliance with the requirements of this chapter.

To avoid undue hardship, nothing in this chapter shall may be deemed to require a change in the design, construction or intended use of any building or structure with respect to which substantial construction was legally carried out prior to March 19, 1974 or the effective date of any amendment to this chapter. An intended use within the meaning of this section ~~shall-be~~ is any use for which such a building or structure is designed as evidenced by the construction or by plans or specifications in existence as of March 19, 1974 or, in the case of any intended use affected by any amendment to this chapter, construction, plans or specifications in existence on the effective date of that amendment.

Sec. 11. 38 MRSA §959, as enacted by PL 1979, c. 459, §1, is amended to read:

§959. Permits required

~~After~~ Except as otherwise provided in this chapter, after March 19, 1974, ~~no~~ a person shall ~~may not~~ engage in any use of land or water for which a permit is required under this chapter without first obtaining a permit from the commission and complying with all federal, state and municipal regulations.'

Further amend the bill in section 10 in paragraph A in the 3rd line (page 4, line 11 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean'

Further amend the bill in section 10 in paragraph D in subparagraph (2) in the 3rd line (page 4, line 30 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean' and in the last line (page 4, line 33 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean'

Further amend the bill in section 10 in paragraph D in subparagraph (3) in the 2nd line (page 4, line 36 in L.D.) by inserting after the following: "normal" the following: 'or mean'

Further amend the bill in section 12 in paragraph E-1 in the 2nd line (page 4, line 45 in L.D.) by inserting after the following: "normal" the following: 'or mean'

Further amend the bill in section 13 in paragraph F in the 2nd line (page 5, line 9 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean'

Further amend the bill in section 13 in paragraph F in subparagraph (3) in the 2nd line (page 5, line 22 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean' and in the 4th line (page 5, line 24 in L.D.) by striking out the following: "~~or-mean~~" and inserting in its place the following: 'or mean'

Further amend the bill by striking out all of the emergency clause.

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The Saco River Corridor Commission will incur some minor additional costs to administer new statutory provisions. These costs can be absorbed within the commission's existing budgeted resources.'

STATEMENT OF FACT

This amendment, which is the majority report of the Joint Standing Committee on Natural Resources, makes several changes to the bill.

1. The bill proposes a new definition of "tributary stream" under the laws relating to the Saco River Corridor Commission. The amendment strikes that definition and inserts an expanded definition of "tributary stream."

2. The bill proposes to eliminate the estuary from the Saco River Corridor. The amendment preserves the estuary of the Saco River within the Saco River Corridor.

3. Currently the Saco River Corridor includes the lands adjacent to the Saco River, the Little Ossipee and the Ossipee Rivers out to 500 feet from the high-water line of the rivers or to the edge of the 100-year floodplain up to a maximum of 1,000 feet. This amendment reduces the width of the Saco River Corridor to 250 feet from the high-water line. The amendment

preserves within the Saco River Corridor the 100-year floodplain out to a maximum of 1,000 feet.

4. Under current law, single-family residences in the limited residential district within the Saco River Corridor must meet certain performance standards. Among these standards is a requirement for a combined frontage and setback from the river of at least 500 feet. Where there is a public right-of-way, as of 1974, within 500 feet of the river, the current law requires in certain circumstances a combined setback from the river and frontage on the road of 500 feet. Under this amendment, the combined setback and frontage on the river is reduced to 350 feet. Under this amendment, where there is a right-of-way, as of 1974, located within 250 feet of the river, the combined setback from the river and frontage on the road is reduced to 350 feet.

5. This amendment makes other technical changes to the bill and clarifies that existing legal uses of land are grandfathered. None of the changes in law accomplished by this amendment are intended to result in standards stricter than those applied under current municipal shoreland zoning ordinances.

6. The amendment adds a fiscal note to the bill.

7. The amendment strikes the emergency preamble and emergency clause from the bill.