

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1998

H.P. 1393

House of Representatives, March 23, 1999

An Act to Fulfill the Requirements of the Electric Restructuring Act.

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DAVIDSON of Brunswick.
Cosponsored by Senator CAREY of Kennebec and
Representative ROSEN of Bucksport.

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

4
6 **Whereas,** the Legislature has determined that the
restructuring of the electric industry is of critical importance
to the citizens of the State; and

8
10 **Whereas,** the deadlines established in the Maine Revised
Statutes, Title 35-A, section 3204 are of vital importance to
establishing effective competition and accomplishing the goals of
that law; and

14 **Whereas,** the divestiture required in Title 35-A, section
3204, creates unique problems that could not have been foreseen
when the restructuring law was enacted and subsequently amended;
and

18
20 **Whereas,** compliance with the deadlines set forth in Title
35-A, section 3204 may be impaired by the unique problems of
application of other laws and ordinances; and

22
24 **Whereas,** the public's interests are adequately protected by
the oversight vested in the Public Utilities Commission pursuant
to Title 35-A and other laws; and

26
28 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

32
34 **Be it enacted by the People of the State of Maine as follows:**

36 **Sec. 1. 35-A MRSA §3204, sub-§9 is enacted to read:**

38 9. Other regulatory approvals; limitation. A transfer of
interests or rights in real property necessary to consummate a
divestiture pursuant to this section that results in a division
40 of ownership of any lot or parcel of real property:

42 A. Is exempt from municipal and state agency approval
required pursuant to laws, ordinances or rules related to
44 land use, zoning, shoreland zoning or subdivision of
property; and

46
48 B. Does not constitute a violation of laws, ordinances or
rules relating to land use, zoning, shoreland zoning or
subdivision of property.

50

2 Any subsequent change or use, development, transfer of ownership
4 or other use of or activity on land divided pursuant to an
6 exemption granted under this subsection is subject to all
8 applicable regulatory reviews and approvals by a municipality or
10 state agency. A municipality or state agency, in its review of
12 any subsequent change of use, development, transfer of ownership
14 or other use of or activity on land whose ownership has been
16 divided pursuant to an exemption granted under this subsection,
18 may consider that division of land ownership and may, in
20 accordance with applicable standards established by law, rule or
22 ordinance, deny or condition its approval based on the cumulative
24 effect of that division of ownership and the proposed use,
26 development, transfer or other activity, as though both were
28 occurring at the same time.

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

20 SUMMARY

22 In order to enable an electric utility to divest generation
24 assets in accordance with the requirements of law, this bill
26 provides exemptions from certain state and local approvals that
28 otherwise may be required in order to consummate the
30 divestiture. Under this bill, a transfer of property necessary
32 to consummate a divestiture that results in a division of
ownership of any lot or parcel of real property is exempt from
municipal and state agency approval pursuant to laws, ordinances
or rules relating to land use, zoning, shoreland zoning or
subdivision of property, and such a division of ownership does
not constitute a violation of those laws, ordinances or rules.

34 The exemptions granted under this bill are solely for the
36 purpose of enabling a divestiture required by law. Any
38 subsequent change of use, development, transfer of ownership or
40 other use of or activity on the land is subject to all applicable
42 regulatory reviews and approvals by a municipality or state
44 agency. A municipality or state agency, in its review of any
46 subsequent change of use, development, transfer of ownership or
other use of or activity on land whose ownership has been
divided, may consider that division of land ownership and may, in
accordance with applicable standards established by law or
ordinance, deny or condition its approval based on the cumulative
effect of that division of ownership and the proposed use,
development, transfer or other activity, as though both were
occurring at the same time.