

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R. O. S.

L.D. 1198

DATE: May 24, 2001

(Filing No. S-253)

AGRICULTURE, CONSERVATION AND FORESTRY

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT 'A' to S.P. 360, L.D. 1198, Bill, "An Act to Refine the Subdivision and Redistricting Authority of the Maine Land Use Regulation Commission"

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

Sec. 1. 12 MRSA §682, sub-§2, as repealed and replaced by PL 1991, c. 687, §1, is repealed.

Sec. 2. 12 MRSA §682, sub-§2-A is enacted to read:

2-A. Subdivision. Except as provided in section 682-B, "subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of the land or by leasing.

The term "subdivision" also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period.

Sec. 3. 12 MRSA §682-B is enacted to read:

§682-B. Exemption from subdivision definition

A division accomplished by the following does not create a subdivision lot or lots unless the intent of the transfer is to avoid the objectives of this chapter.

COMMITTEE AMENDMENT

2 1. Gifts to relatives. A division of land accomplished by
3 gift to a spouse, parent, grandparent, child, grandchild or
4 sibling of the donor of the lot or parcel does not create a
5 subdivision lot if the donor has owned the lot or parcel for a
6 continuous period of 5 years immediately preceding the division
7 by gift and the lot or parcel is not further divided or
8 transferred within 5 years from the date of division.

10 2. Transfer to governmental entity. A lot or parcel
11 transferred to a municipality or county of the State, the State
12 or an agency of the State is not considered a subdivision lot if
13 the following conditions are met:

14 A. The lot or parcel is held by the governmental entity for
15 the conservation and protection of natural resources, public
16 outdoor recreation or other bona fide public purposes and is
17 not further sold or divided for a period of 20 years
18 following the date of transfer; and

19 B. At the time of transfer the transferee provides written
20 notice to the commission of transfer of the lot or parcel,
21 including certification that the lot or parcel qualifies for
22 exemption under this subsection.
23

24 3. Transfer to conservation organization. A lot or parcel
25 transferred to a nonprofit, tax-exempt nature conservation
26 organization qualifying under the United States Internal Revenue
27 Code, Section 501(c)(3) is not considered a subdivision lot if
28 the following conditions are met:

29 A. For a period of at least 20 years following the
30 transfer, the lot or parcel must be limited by deed
31 restriction or conservation easement for the protection of
32 wildlife habitat or ecologically sensitive areas or for
33 public outdoor recreation; and

34 B. The lot or parcel is not further divided or transferred
35 except to another qualifying nonprofit, tax-exempt nature
36 conservation organization or governmental entity.

37 4. Transfer of lots for forest management, agricultural
38 management or conservation of natural resources. A lot or parcel
39 is not considered a subdivision lot if the following conditions
40 are met:

41 A. The lot is transferred and managed solely for forest
42 management, agricultural management or conservation of
43 natural resources;
44

45

2 B. The lot is at least 40 acres in size;

4 C. If the lot is less than 1,000 acres in size, no portion
6 of the lot is located within 1,320 feet of the normal high
8 water line of any great pond or river or within 250 feet of
10 the upland edge of a coastal or freshwater wetland as
12 defined in Title 38, section 436-A;

14 D. The original parcel from which the lot was divided is
16 divided into an aggregate of no more than 10 lots within any
18 5-year period; and

20 E. When 3 to 10 lots each containing at least 40 acres in
22 size are created within any 5-year period, a plan is
24 recorded in accordance with section 685-B, subsection 6-A.
26 Any subsequent division of a lot created from the original
28 parcel within 10 years of the recording of the plan in the
30 registry of deeds or any structural development unrelated to
32 forest management, agricultural management or conservation
34 creates a subdivision and may not occur without prior
36 commission approval.

38 5. Unauthorized subdivision lots in existence for at least
40 20 years. A lot or parcel that when sold or leased created a
42 subdivision requiring a permit under this chapter is not
44 considered a subdivision lot and is exempt from the permit
46 requirement if the permit has not been obtained and the
48 subdivision has been in existence for 20 or more years. A lot or
50 parcel is considered a subdivision lot and is not exempt under
 this subsection if:

A. Approval of the subdivision under section 685-B was
 denied by the commission and record of the commission's
 decision was recorded in the appropriate registry of deeds;

B. A building permit for the lot or parcel was denied by
 the commission under section 685-B and record of the
 commission's decision was recorded in the appropriate
 registry of deeds;

C. The commission has filed a notice of violation of
 section 685-B with respect to the subdivision in the
 appropriate registry of deeds; or

D. The lot or parcel has been the subject of an enforcement
 action or order and record of that action or order was
 recorded in the appropriate registry of deeds.

Sec. 4. 12 MRSA §685-B, sub-§6-A, ¶¶A and B, as enacted by PL
1991, c. 687, §2, are amended to read:

2 A. When 3 to 10 lots each containing at least 40 acres are
 4 created within a 5-year period and are located more than
 6 1,320 feet from the normal high water line of any great pond
 8 or river and more than 250 feet from the upland edge of a
 10 coastal or freshwater wetland as defined in Title 38,
 12 section 436-A, a plan showing the division of the original
 14 parcel must be filed by the person creating the 3rd lot with
 16 the commission within 60 days of the creation of that lot.
 18 The plan must state that the lots may be used only for
 20 forest management, agricultural management or conservation
 22 of natural resources.

14 B. A register of deeds may not record any plan depicting
 16 these lots within the unorganized and deorganized lands of
 18 the State unless the commission's certification that the
 20 division qualifies under section 682, ~~sub-section 2, 3rd~~
 22 paragraph 682-B is evidenced on the plan. The commission
 must determine whether the plan qualifies under section 682,
~~sub-section 2, 3rd~~ paragraph 682-B within 15 business days of
 receipt of the plan.

24 **Sec. 5. 12 MRSA §685-B, sub-§6-B,** as enacted by PL 1997, c.
 335, §1, is repealed.

26 **Sec. 6. 38 MRSA §480-Q, sub-§7-A, ¶D,** as enacted by PL 1989,
 28 c. 838, §6, is amended to read:

30 D. Any road construction is not used to access development
 32 but is used primarily for forest management activities,
 34 unless the road is removed and the site restored to its
 36 prior natural condition. Roads must be the minimum feasible
 38 width and total length consistent with forest management
 40 activities. This exemption does not apply to roads that
 42 provide access to development in a subdivision as defined in
 Title 30-A, section 4401, subsection 4, for the organized
 portions of the State, or Title 12, section 682, subsection
 2 ~~2-A~~, including divisions of land exempted by Title 12,
 section 682, ~~sub-section 2, paragraph A~~ 682-B, for portions
 of the State under the jurisdiction of the Maine Land Use
 Regulation Commission.

44 **Sec. 7. Application.** Nothing in this Act is intended or may
 46 be interpreted to require a person to obtain a permit pursuant to
 48 the Maine Revised Statutes, Title 12, section 685-B for any
 division of land occurring prior to the effective date of this
 Act if that division of land did not require such a permit prior
 to the effective date of this Act.'

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 360, L.D. 1198

2 Further amend the bill by inserting at the end before the
summary the following:

4
6 **FISCAL NOTE**
8
2001-02 2002-03

| | | | |
|----|-----------------|---------|---------|
| 10 | REVENUES | | |
| 12 | General Fund | \$2,400 | \$2,400 |

14 Increasing the number of subdivision lots that will need
approval by the Maine Land Use Regulation Commission within the
Department of Conservation will increase annual General Fund
16 revenue collected from permit fees by \$2,400 beginning in fiscal
year 2001-02.

18 The Maine Land Use Regulation Commission will incur some
20 minor additional costs to approve subdivision applications.
These costs can be absorbed within the commission's existing
22 budgeted resources.

24 The Maine Land Use Regulation Commission will realize some
minor savings from repeal of a landowner reporting requirement
26 which involved staff reviewing time.'

28 **SUMMARY**

30 This amendment amends the bill as follows.

32
34 1. It clarifies language that exempts lots conveyed to
certain governmental entities and conservation organizations as
well as certain lots that are devoted to forest or agricultural
36 management or conservation of natural resources.

38 2. It retains the requirement for filing of a land division
plan and requires the plan to state that the lots may be used
40 only for forest management, agricultural management or
conservation of natural resources.

42
44 3. It eliminates the provisions that would allow
conditional zoning.

46 4. It clarifies the application of the bill to certain
existing land divisions.

48 5. It adds a fiscal note to the bill.

COMMITTEE AMENDMENT