

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1278

S.P. 380

In Senate, February 28, 2001

**An Act to Implement the Recommendations of the Task Force to Study
Growth Management.**

Reported by Senator Douglass for the Task Force to Study Growth Management pursuant
to Joint Order S.P. 1090

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

2
3 **Sec. 1. 30-A MRSA §4401, sub-§4, ¶A**, as enacted by PL 1989, c.
4 104, Pt. A, §45 and Pt. C, §10, is amended to read:

6 A. In determining whether a tract or parcel of land is
7 divided into 3 or more lots, the first dividing of the tract
8 or parcel is considered to create the first 2 lots and the
9 next dividing of either of these first 2 lots, by whomever
10 accomplished, is considered to create a 3rd lot, unless:

12 (1) Both dividings are accomplished by a subdivider
13 who has retained one of the lots for the subdivider's
14 own use as a single-family residence ~~or for open space~~
15 ~~land as defined in Title 36, section 1102, that has~~
16 been the subdivider's principal residence for a period
17 of at least 5 years before immediately preceding the
18 2nd dividing ~~occurs~~ division; or

20 (2) The division of the tract or parcel is otherwise
21 exempt under this subchapter.

22 **Sec. 2. 30-A MRSA §4401, sub-§4, ¶C**, as amended by PL 1989, c.
23 326, §1, is further amended to read:

26 C. A lot of 40 or more acres shall may not be counted as a
27 lot, except:

28 (1) When the lot or parcel from which it was divided
29 is located entirely or partially within any shoreland
30 area as defined in Title 38, section 435, or a
31 municipality's shoreland zoning ordinance ~~or~~.

34 ~~(2) When a municipality has, by ordinance, or the~~
35 ~~municipal reviewing authority has, by regulation,~~
36 ~~elected to count lots of 40 or more acres as lots for~~
37 ~~the purposes of this subchapter when the parcel of land~~
38 ~~being divided is located entirely outside any shoreland~~
39 ~~area as defined in Title 38, section 435, or a~~
40 ~~municipality's shoreland zoning ordinance.~~

42 **Sec. 3. 30-A MRSA §4401, sub-§4, ¶D**, as amended by PL 1991, c.
43 500, §1, is repealed.

44 **Sec. 4. 30-A MRSA §4401, sub-§4, ¶¶D-1 to D-6** are enacted to
45 read:

48 D-1. A division accomplished by devise does not create a
lot or lots for the purposes of this definition, unless the

2 intent of the transferor is to avoid the objectives of this
subchapter.

4 D-2. A division accomplished by condemnation does not
create a lot or lots for the purposes of this definition,
6 unless the intent of the transferor is to avoid the
objectives of this subchapter.

8
10 D-3. A division accomplished by order of court does not
create a lot or lots for the purposes of this definition,
12 unless the intent of the transferor is to avoid the
objectives of this subchapter.

14 D-4. A division accomplished by gift to a person related to
the donor of an interest in property held by the donor for a
16 continuous period of 5 years prior to the division by gift
does not create a lot or lots for the purposes of this
18 definition, unless the intent of the transferor is to avoid
the objectives of this subchapter. If the real estate
20 exempt under this paragraph is transferred within 5 years to
another person not related to the donor of the exempt real
22 estate as provided in this paragraph, then the previously
exempt division creates a lot or lots for the purposes of
24 this subsection. "Person related to the donor" means a
spouse, parent, grandparent, brother, sister, child or
26 grandchild related by blood, marriage or adoption. A gift
under this paragraph can not be given for consideration that
28 can be assessed a monetary value.

30 D-5. A division accomplished by a gift to a municipality if
that municipality accepts the gift does not create a lot or
32 lots for the purposes of this definition, unless the intent
of the transferor is to avoid the objectives of this
34 subchapter.

36 D-6. A division accomplished by the transfer of any
interest in land to the owners of land abutting that land
38 that does not create a separate lot does not create a lot or
lots for the purposes of this definition, unless the intent
40 of the transferor is to avoid the objectives of this
subchapter. If the real estate exempt under this paragraph
42 is transferred within 5 years to another person without all
of the merged land, then the previously exempt division
44 creates a lot or lots for the purposes of this subsection.

46 **Sec. 5. 30-A MRS §4401, sub-§4, ¶H, as enacted by PL 1989, c.**
104, Pt. A, §45 and Pt. C, §10, is amended to read:

48
50 H. Nothing in this subchapter may be construed to prevent a
municipality from enacting an ordinance under its home rule

2 authority which that expands the definition of subdivision
3 ~~to include the division of a structure for commercial or~~
4 ~~industrial use~~ or which that otherwise regulates land use
5 activities.

6 **Sec. 6. 30-A MRSA §4401, sub-§4, ¶I,** as enacted by PL 1991, c.
7 500, §2, is amended to read:

8
9 I. The grant of a bona fide security interest in an entire
10 lot that has been exempted from the definition of
11 subdivision under ~~paragraph D~~ paragraphs D-1 to D-6, or
12 subsequent transfer of that entire lot by the original
13 holder of the security interest or that person's successor
14 in interest, does not create a lot for the purposes of this
15 definition, unless the intent of the transferor is to avoid
16 the objectives of this subchapter.

17 **Sec. 7. 30-A MRSA §4402-A** is enacted to read:

18 **§4402-A. Minimum lot size or setback for lots in subdivision**

19 A municipality may not adopt or administer more restrictive
20 minimum lot size ordinances or minimum setback ordinances for
21 lots that are within a subdivision than for lots that are not
22 within a subdivision, unless the lots within the subdivision are
23 arranged in the form of a cluster development approved by the
24 municipality. This section does not apply to municipalities that
25 are administering the state minimum lot size law.

26
27 **Sec. 8. Appropriation.** The following funds are appropriated
28 from the General Fund to carry out the purposes of this Act.

29
30
31 **2001-02** **2002-03**

32
33 **ADMINISTRATIVE AND FINANCIAL**
34 **SERVICES, DEPARTMENT OF**

35 **Information Services**

36
37
38
39
40 Positions - Legislative Count (1,000)
41 Personal Services \$50,000
42 All Other 25,000
43 Capital Expenditures 10,000

44
45 Provides for the
46 appropriation of funds to
47 establish one Statewide
48 Geographic Information System
Coordinator position.

2	DEPARTMENT OF ADMINISTRATIVE		
	AND FINANCIAL SERVICES		
4	TOTAL	<u>\$85,000</u>	
6	EXECUTIVE DEPARTMENT		
8	Office of Geographic Information		
	Systems		
10	All Other	\$1,500,000	\$1,200,000
12			
14	Provides for funds that the		
	Office of Geographic		
16	Information Systems shall use		
	to develop, coordinate and		
18	maintain a regionally based		
	geographic information system		
20	and to assist regional		
	councils and municipalities		
22	in the development and use of		
	geographic information		
24	systems for tracking patterns		
	of development and associated		
26	land use planning.		
28	EXECUTIVE DEPARTMENT		
	TOTAL	<u>\$1,500,000</u>	<u>\$1,200,000</u>
30	TOTAL APPROPRIATIONS	<u>\$1,585,000</u>	<u>\$1,200,000</u>

32 **Sec. 9. Appropriation.** The following funds are appropriated
34 from the General Fund to carry out the purposes of this Act.

36 **2001-02**

38	EXECUTIVE DEPARTMENT		
40	State Planning Office		
42	All Other		\$4,000,000
44			
46	Provides funds for planning and		
	implementation grants, plan updates, smart		
48	growth initiatives, pilot projects, grants		
	for financial and technical assistance to		
	municipalities and grants to regional		
	councils. At the end of each fiscal year		

2 any unexpended balance may not lapse but
must be carried forward to be used for the
4 same purpose.

6 **Sec. 10. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

8 **2001-02**

10 **MAINE MUNICIPAL BOND BANK**

12 **Municipal Investment Trust Fund**

14 All Other \$20,000,000

16 Provides for the appropriation of funds to
18 capitalize the Municipal Investment Trust
Fund.

20

SUMMARY

22

24 This bill implements the recommendations of the Task Force
to Study Growth Management. It amends the definition of
26 subdivision in the subdivision law; it appropriates funds for the
development of a regionally based geographic information system
for tracking patterns of development; it appropriates funds for
28 grants for financial and technical assistance to municipalities
for the preparation, updating and implementation of comprehensive
30 plans; and it capitalizes the Municipal Investment Trust Fund.