



121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

H.P. 513

House of Representatives, February 14, 2003

No. 696

An Act To Maintain Beaches as Recreation Sites for the Public

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

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative COWGER of Hallowell. Cosponsored by Senator MARTIN of Aroostook and Representatives: ANNIS of Dover-Foxcroft, HUTTON of Bowdoinham, KOFFMAN of Bar Harbor, SAVIELLO of Wilton, THOMPSON of China, TWOMEY of Biddeford, Senators: EDMONDS of Cumberland, SAWYER of Penobscot.

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 38 MRSA §480-C, sub-§4 is enacted to read:
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	4. Prohibited activities; no permits authorized.
6	Notwithstanding subsections 1 and 2, the following activities are
	prohibited and permits for the activities may not be issued:
8	
	A. Construction of new or enlargement of existing seawalls,
10	bulkheads or similar structures on the coastal sand dune
1.0	system. Maintenance and repair are permitted as long as
12	they are conducted on the applicant's property and rocks, if
	used, are placed no more seaward than the existing seawall,
14	<pre>except as permitted in section 480-0;</pre>
16	
16	B. Reconstruction or replacement of buildings that are
18	<u>damaged by more than 50% and are located in the coastal sand</u> <u>dune system, if the damage was caused by wave action due to</u>
10	an ocean storm;
20	an <u>Ocean Scorm</u> ;
20	C. Maintenance and repair of a structure located in the
22	coastal sand dune system when the cost, including the value
52	of labor and materials, is equivalent to or exceeds 50% of
24	the structure's assessed value; and
26	D. Construction of new buildings in the frontal dune.
28	Sec. 2. 38 MRSA §480-W, sub-§1, as enacted by PL 1995, c.
	230, §1, is amended to read:
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	1. Protective materials. Place riprap, sandbags or other
32	heavy nonhazardous material to shore up the threatened structure
	and replace, repair or leave the materials in place until a
34	project designed to alleviate the threat is certified by the
	department and by the local code enforcement officer, and that
36	project requires removal of the material. Protective materials
	must be placed on the landowner's property and may not be placed
38	in a position more seaward than the existing structure; and
40	Sec. 3. 38 MRSA §480-W. as enacted by PL 1995, c. 230, §1,
40	is amended by adding a new paragraph at the end to read:
42	is anonaed by adding a new paragraph at the end to read.
12	Nothing in this section may be construed to allow
44	construction of new or enlargement of existing seawalls,
	bulkheads or similar structures as prohibited by section 480-C,
46	subsection 4, paragraph A.
48	Sec. 4. 38 MRSA §480-AA is enacted to read:
50	§480-AA. Variance for activities in coastal sand dune system

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2	1. Basis for variance. The board may grant a variance from
4	the sand supply standard in section 480-D, subsection 7 for the following only:
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6	A. Reconstruction or replacement of a building located in a
	<u>V-zone, as described in section 480-E, subsection 9, due to</u>
8	involuntary destruction by fire or other cause, except for
	<u>an ocean storm; or</u>
10	
	B. Height restrictions for new structures or additions to
12	existing structures for the purpose of raising an existing
	building above the flood elevation, provided the increase in
14	<u>height is no more than the minimum necessary to meet</u>
	flooding requirements.
16	
	2. Requirements. In order to obtain a variance, the
18	applicant must demonstrate, by clear and convincing evidence,
	that:
20	
	A. There is no feasible alternative to the proposed
22	variance;
2.4	
24	B. Because of unusual design characteristics or site
26	conditions, the project will be consistent with the intent
20	of the board;
28	C. If the variance is granted, the project will not cause
20	harm to real or personal property not owned by the
30	applicant; and
50	appricanc, and
32	D. Even if the proposed variance is granted, all other
52	statutory criteria set forth in section 480-D will be met.
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36	SUMMARY
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50	This bill prohibits seawall construction and enlargement;
40	prohibits reconstruction of buildings in the sand dune system damaged by more than 50% by a storm; prohibits construction of
40	new buildings in the frontal dune; and authorizes the Board of
42	Environmental Protection to grant variances from sand supply
72	standards.

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