

MAINE STATE LEGISLATURE

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Date: 6-3-11

MINORITY

(Filing No. S-241)

JUDICIARY

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 344, L.D. 1135, Bill, "An Act To Protect the Rights of Property Owners"

Amend the bill in section 1 in §841 by striking out all of subsections 1 to 4 (page 1, lines 8 to 19 in L.D.) and inserting the following:

1. Land use regulation. "Land use regulation" means the following that are enacted after the effective date of this chapter:

A. Statutes regulating the use of land or any interest in land;

B. Municipal comprehensive plans and ordinances; and

C. Statutes and administrative rules regulating farming and forest practices.

2. Owner. "Owner" means the owner of property or any interest in property.

3. Public entity. "Public entity" means the State, a municipality or a county.'

Amend the bill in section 1 in §842 in subsection 1 in the 2nd line (page 1, line 22 in L.D.) by striking out the following: "or enforces a land use regulation enacted prior to" and inserting the following: 'after'

Amend the bill in section 1 in §842 in subsection 1 in the last line (page 1, line 25 in L.D.) by inserting after the following: "property" the following: "by at least 50%'

Amend the bill in section 1 in §842 in subsection 3 in paragraph C (page 2, line 4 in L.D.) by inserting after the following: "law;" the following: 'or'

Amend the bill in section 1 in §842 in subsection 3 in paragraph D in the last line (page 2, line 8 in L.D.) by striking out the following: "Constitution; or" and inserting the following: 'Constitution.'

Amend the bill in section 1 in §842 in subsection 3 by striking out all of paragraph E (page 2, lines 9 to 11 in L.D.)

Amend the bill in section 1 in §842 by striking out all of subsection 5 (page 2, lines 16 to 24 in L.D.) and inserting the following:

COMMITTEE AMENDMENT

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5. Statute of limitations. For claims arising from land use regulations enacted on or after the effective date of this chapter, written demand for compensation under subsection 4 must be made within 2 years of the enactment of the land use regulation or the date the owner submits a land use application in which the land use regulation is an approval criteria, whichever is later.'

Amend the bill in section 1 in §842 in subsection 8 in the last 2 lines (page 2, lines 41 and 42 in L.D.) by striking out the following: "or inherited"

Amend the bill in section 1 in §842 in subsection 10 in the last line (page 3, line 8 in L.D.) by striking out the following: "or inherited"

SUMMARY

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment provides that compensation is due when land use regulations that are enacted after the effective date of this legislation reduce by at least 50% the fair market value of property or an interest in property.

FISCAL NOTE REQUIRED

(See attached)



125th MAINE LEGISLATURE

LD 1135

LR 657(02)

An Act To Protect the Rights of Property Owners

Fiscal Note for Bill as Amended by Committee Amendment "A" S - 241

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - General Fund

Correctional and Judicial Impact Statements

Increases judicial branch case-loads.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill requires all public entities at the municipal, county and state level to compensate landowners who present a demand letter and/or subsequently pursue the private right of action granted by this bill in response to land use regulations enacted or applied in such a manner as to allegedly cause a diminution of value by at least 50% in any real property interest. The bill provides for reimbursement of reasonable attorney's fees, expenses, costs and other disbursements incurred to collect such compensation in a Superior Court action, but does not specify whether the owner bringing such suit must prevail in the action in order to be entitled to reasonable fees and costs.

Any demands for compensation or civil actions brought pursuant to the provisions of this bill could result in significant costs to the General Fund or to local units of government. Government entities do have the ability to avoid paying compensation by modifying, removing or not applying the land use regulation that caused the demand for compensation. As it cannot be predicted what decisions will be made to limit the amount of compensation that may be paid, no estimate of cost to the General Fund is made at this time.