

MAINE STATE LEGISLATURE

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L.D. 1648

Date: 3-12-12

(Filing No. S-434)

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ENVIRONMENT AND NATURAL RESOURCES

4

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

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STATE OF MAINE

6

SENATE

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125TH LEGISLATURE

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SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 547, L.D. 1648, Bill, "An Act To Clarify the Site Location of Development Laws Regarding Exemptions for Previously Developed Sites"

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

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Sec. 1. 38 MRSA §488, first ¶, as amended by PL 1997, c. 72, §3, is further amended to read:

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This article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying 100 kilovolts or more, nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way. For purposes of this paragraph, development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under this article. When determining if development meets the definition of "development of state or regional significance that may substantially affect the environment" and therefore is subject to review under this article, the department may not consider development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. When reviewing a proposal for development of state or regional significance that may substantially affect the environment under this article, the department may not consider in the review any development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph.

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Sec. 2. 38 MRSA §488, sub-§15, as amended by PL 1997, c. 748, §4, is further amended to read:

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15. Exemption for former military bases. Development on a military base at the time ownership of the military base is acquired by a state or local development authority

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2 is exempt from review under this article. Subsequent transfer of ownership or lease of a
3 former military base or any portion of a former military base by a state or local
4 development authority to another entity does not affect the exemption granted under this
5 subsection. Development proposed or occurring on a former military base after
6 ownership of the military base is acquired by a state or local development authority is
7 subject to review under this article, except ~~that section 482, subsection 2, paragraph E~~
8 ~~does not apply to the development~~ to the extent that the development reuses a building
and associated facilities in existence on September 29, 1995.

9 For purposes of this subsection, "military base" means all property under the ownership
10 or control of a federal military authority prior to the acquisition of ownership by a state or
11 local development authority, the ownership of which is subsequently acquired by a state
12 or local development authority. For purposes of this subsection, "ownership" means a fee
13 interest or leasehold interest in property.

14 A. Development that is not exempt under this subsection is subject to review under
15 this article if it meets the definition of "development of state or regional significance
16 that may substantially affect the environment."

17 B. When reviewing a proposal for development of state or regional significance that
18 may substantially affect the environment, the department may not consider in the
19 review any development that is exempt from review pursuant to this subsection.

20 **Sec. 3. 38 MRSA §488, sub-§§26, 27 and 28** are enacted to read:

21 26. Exemption for existing ski area facilities. New construction at or a
22 modification of a ski area facility permitted pursuant to this article is exempt from review
23 under this article as provided in this subsection.

24 A. New construction at or a modification of a ski area facility permitted pursuant to
25 this article is exempt from review under this article if:

26 (1) The additional disturbed area not to be revegetated does not exceed 30,000
27 square feet ground area in any calendar year and does not exceed 60,000 square
28 feet ground area in total;

29 (2) The construction or modification does not involve a division of the parcel of
30 land;

31 (3) The construction or modification is not of a building having an area in excess
32 of 3,500 square feet; and

33 (4) It is construction or modification of equipment or facilities that are ancillary
34 to and necessary for the operation of the ski area facility permitted pursuant to
35 this article, including, but not limited to, snowmaking equipment, lift towers,
36 lights, signs, fences, water or air pumps, pump houses and storage buildings.

37 B. The permittee shall annually notify the department of any new construction or
38 modifications conducted during the previous 12 months that fall under this
39 exemption. The notice must identify the type, location and ground area of the new
40 construction or modification. With the annual notification, the permittee shall
41 provide to the department development plans certified by a professional engineer for
42 the new construction or modification undertaken pursuant to this subsection.

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C. When review under this article is required for new construction at or a modification of a permitted ski area facility, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

27. Exemption for educational institutions. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article as provided in this subsection. For purposes of this subsection, "educational institution" means any private or public school or postsecondary institution.

A. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article if the additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required at an educational institution permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

D. Nothing in this subsection authorizes a person to undertake an activity on a parcel of land affected by an order or permit issued by the department that is contrary to that order or permit.

28. Applicability of exemptions. Unless otherwise specifically provided, nothing in this section exempts any activity from any requirements under this Title, rules adopted pursuant to this Title or the terms or conditions of a license, permit or order issued by the board or the commissioner.'

SUMMARY

This amendment strikes the bill and amends certain existing exemptions and adds new exemptions to the laws governing site location of development.

1. It amends the existing exemption for development in existence on January 1, 1970 by providing that:

A. Reuse of a building and associated facilities in existence on January 1, 1970 is exempt from review; and

B. When reviewing an application under the laws governing site location of development or determining whether the laws governing site location of development apply to a project, the Department of Environmental Protection may not take into consideration any development that is exempt from review due to its pre-1970 status.

2. It amends the existing exemption for former military bases by providing that:

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COMMITTEE AMENDMENT "A" to S.P. 547, L.D. 1648

- 1 A. Reuse of a building and associated facilities in existence on September 29, 1995
2 on a former military base is exempt from review;
- 3 B. Unless exempt, development that meets the definition of "development of state or
4 regional significance that may substantially affect the environment" is subject to
5 review;
- 6 C. When reviewing an application under the laws governing site location of
7 development, the department may not take into consideration any development that is
8 exempt from review; and
- 9 D. Subsequent lease of a former base or a portion of the base does not affect the
10 exemption.
- 11 3. It adds an exemption for certain development at ski areas that hold a permit
12 pursuant to the laws governing site location of development. The exemption is similar to
13 the existing exemption for manufacturing facilities.
- 14 4. It adds an exemption for certain development on educational institution campuses
15 that hold a permit pursuant to the laws governing site location of development. The
16 exemption is similar to the existing exemption for manufacturing facilities. The
17 amendment clarifies that the exemption does not authorize activity on a parcel of land
18 affected by an order or permit issued by the department that is contrary to that order or
19 permit.
- 20 5. It clarifies that, unless specifically provided, nothing in the laws governing site
21 location of development exempts any activity from any requirements under the Maine
22 Revised Statutes, Title 38, rules adopted pursuant to Title 38 or the terms or conditions of
23 a license, permit or order issued by the Board of Environmental Protection or the
24 Commissioner of Environmental Protection.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT

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Approved: 03/08/12 *MAC*

125th MAINE LEGISLATURE

LD 1648

LR 2511(02)

An Act To Clarify the Site Location of Development Laws Regarding Exemptions for Previously Developed Sites

Fiscal Note for Bill as Amended by Committee Amendment "A" S-434

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor revenue decrease - Other Special Revenue Funds

Fiscal Detail and Notes

The bill provides a limited expansion of certain existing exemptions and adds new exemptions from the laws governing site location. The bill is estimated to slightly reduce the fees received by the Department of Environmental Protection for performing site reviews.