

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 824

H.P. 575

House of Representatives, March 5, 2013

**Resolve, Directing the Department of Environmental Protection To
Develop a Rural Land Use Development Process**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CAMPBELL of Newfield. (BY REQUEST)
Cosponsored by Senator COLLINS of York and
Representatives: BEAVERS of South Berwick, DUPREY of Hampden, MASTRACCIO of
Sanford, VOLK of Scarborough, WINCHENBACH of Waldoboro.

1 **Sec. 1. Definitions. Resolved:** That, as used in this resolve, the following terms
2 have the following meanings.

3 **1. Rural area.** "Rural area" means an area that is classified as rural according to the
4 most recent Federal Decennial Census.

5 **2. Significant wildlife habitat.** "Significant wildlife habitat" has the same meaning
6 as set forth in the Maine Revised Statutes, Title 38, section 480-B, subsection 10; and be
7 it further

8 **Sec. 2. Development of plan. Resolved:** That the Department of
9 Environmental Protection, referred to in this resolve as "the department," shall develop a
10 rural land use development process that would exempt from state regulation the
11 development in rural areas of certain land within significant wildlife habitat. The rural
12 land use development process developed by the department must provide for the
13 following.

14 **1. Approval by local code enforcement officer.** A landowner seeking to develop
15 rural land that is within significant wildlife habitat shall submit the development plan to
16 the local code enforcement officer, who is authorized to approve the plan without
17 participation or review by the department or other state entity. If the local code
18 enforcement officer approves the plan, the landowner is authorized to proceed without
19 requiring the submission to the department of permit applications or the payment of
20 regulatory fees.

21 **2. Failure to approve by local code enforcement officer.** If the local code
22 enforcement officer does not approve the plan submitted, the local code enforcement
23 officer shall contact the department or other appropriate state entity to review the plan.
24 The landowner need not submit to the department a permit application or pay a regulatory
25 fee. Within one week, the department or state entity must respond to the local code
26 enforcement officer with the results of the review.

27 A. If, upon review, the department or state entity does not identify issues that would
28 prevent the development from proceeding, the landowner may proceed with the plan.

29 B. If, upon review, the department or state entity identifies issues that would prevent
30 the development from proceeding, the department or state entity shall propose an
31 alternative plan that it considers less potentially damaging to the significant wildlife
32 habitat. If the landowner accepts the alternative plan, the landowner may proceed
33 with the alternative plan without submission to the department of permit applications
34 or the payment of regulatory fees.

35 **3. Failure to reach agreement between landowner and the State.** If the
36 landowner declines the alternative plan submitted by the department or state entity, the
37 State may exercise its powers under eminent domain to take the property in question. If
38 the State does not exercise eminent domain to take the property, the landowner may
39 proceed with the development under the landowner's original plan. If the State elects to
40 exercise eminent domain to take just a portion of the property and the landowner believes
41 that the partial taking renders the property useless, the State must purchase the entire

1 parcel or relinquish its objections to the landowner's pursuit of the development under the
2 original plan; and be it further

3 **Sec. 3. Report. Resolved:** That the department shall submit a report outlining
4 the proposed rural land use development process, together with necessary implementing
5 legislation, to the Joint Standing Committee on Natural Resources by December 4, 2013.
6 After receipt and review of the report, the joint standing committee may submit a bill
7 implementing the process to the Second Regular Session of the 126th Legislature.

8 **SUMMARY**

9 This resolve directs the Department of Environmental Protection to develop a rural
10 land use development process that would exempt from state regulation the development
11 in rural areas of certain land within significant wildlife habitat.