

MAINE STATE LEGISLATURE

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5/15/13
ROB8

L.D. 1204

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2 Date: 5/15/13

(Filing No. H-173)

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 848, L.D. 1204, Bill, "An Act To Clarify the Appeal Process of Code Enforcement Officers and Boards of Appeal"

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

'Sec. 1. 30-A MRSA §2691, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8, 10, is further amended to read:

4. Jurisdiction. Any municipality establishing a board of appeals may give the board the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, regulation or failure to act of any officer, board, agency or other body when an appeal is necessary, proper or required. No board may assert jurisdiction over any matter unless the municipality has by charter or ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Absent an express provision in a charter or ordinance that certain decisions of its code enforcement officer or board of appeals are only advisory or may not be appealed, a notice of violation or an enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by the board of appeals and in turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any such decision that is not timely appealed is subject to the same preclusive effect as otherwise provided by law. Any board of appeals shall hear any appeal submitted to the board in accordance with Title 28-A, section 1054.'

SUMMARY

The bill strikes a provision in current law that a board of appeals may not assert jurisdiction over a matter unless the municipal charter or ordinance specifies the precise subject matter that may be appealed. This amendment retains that provision.

The bill allows a board of appeals to review a decision of a code enforcement officer unless the charter or an ordinance expressly provides that the decision is only advisory;

COMMITTEE AMENDMENT

1 the amendment provides that the charter or an ordinance may expressly provide that the
2 decision may not be appealed.

3 The bill and amendment seek to address the decisions in Eliot Shores, LLC v. Town
4 of Eliot, 2010 ME 129, 9 A.3d 806 and Farrell v. City of Auburn, 2010 ME 88, 3 A.3d
5 385.