

MAINE STATE LEGISLATURE

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Date: 3/24/16

L.D. 775

(Filing No. H-603)

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JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 528, L.D. 775, Bill, "An Act To Streamline Judicial Review of Certain Land Use Decisions"

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

'Sec. 1. 30-A MRSA c. 190 is enacted to read:

CHAPTER 190

JUDICIAL REVIEW OF SIGNIFICANT MUNICIPAL LAND USE DECISION

§4481. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Significant municipal land use decision. "Significant municipal land use decision" means final action on an application for a land use development project that is either:

A. Submitted to the municipal reviewing authority, as defined by section 4301, subsection 12, under a municipal site plan ordinance or other municipal ordinance adopted under chapter 187, subchapter 3, or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A, but only if the land use development project consists of:

(1) One or more buildings that occupy a total ground area in excess of 10,000 square feet or contain a total floor area in excess of 40,000 square feet; or

(2) A total ground area in excess of 3 acres occupied by buildings, parking lots, roads, paved areas, wharves and other areas to be stripped or graded and not revegetated; or

B. Submitted as a project consisting of 10 or more lots subject to the municipal reviewing authority, as defined by section 4301, subsection 12, under an ordinance

COMMITTEE AMENDMENT

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adopted under chapter 187, subchapter 4 or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A.

§4482. Review of significant municipal land use decision

This section governs the process of filing complaints in Superior Court to challenge a significant municipal land use decision or the failure to make such a decision.

1. Review of significant municipal land use decision. A complaint may be filed either in the general docket of the Superior Court for the county in which the municipality is located or directly in a docket designated by the Supreme Judicial Court for business matters. Any complaint filed in the general docket of the Superior Court for the county in which the municipality is located must be transferred upon request of any party to the proceeding to a docket designated by the Supreme Judicial Court for business matters.

2. Filing of record. The defendant municipality shall file a complete record for review, as described in the Maine Rules of Civil Procedure, Rule 80B, as agreed upon by the parties within 35 days of the commencement of the action, unless the court enlarges the time for cause.

§4483. Appeal of significant municipal land use decision to Law Court

Any party to a review proceeding under this chapter may obtain review of a final judgment by appeal to the Supreme Judicial Court, sitting as the Law Court. The appeal must be taken as in other civil cases, except that upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.'

SUMMARY

This amendment, which is the minority report of the Joint Standing Committee on Judiciary, replaces the bill, which is a concept draft. It provides that a complaint for review of a municipal decision on a significant land use project may be filed with either the general docket of the Superior Court, as in current law, or directly with the Business and Consumer Docket in the Superior Court established by the Maine Supreme Judicial Court by Administrative Order JB-07-1 (A.11-08). It also provides that, if a complaint is filed with the general docket, any party to the appeal may request that the complaint be transferred to the Business and Consumer Docket and the Business and Consumer Docket is required to accept the transfer.

The amendment requires that a defendant municipality must file the record for review as agreed upon by the parties within 35 days of the commencement of the action, as opposed to 40 days pursuant to current court rules, unless the court extends the time for cause.

A party may appeal the Superior Court decision of a significant municipal land use decision, whether from the general docket or the Business and Consumer Docket, to the Supreme Judicial Court. Upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.