

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1809

S.P. 636

In Senate, December 17, 2021

An Act To Allow Exceptions to the Height Limitations under the Shoreland Zoning Laws

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 15, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.
Cosponsored by Representative DOUDERA of Camden and
Senators: BLACK of Franklin, CARNEY of Cumberland, MOORE of Washington,
Representatives: BLUME of York, GRAMLICH of Old Orchard Beach, MATHIESON of
Kittery.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §436-A, sub-§1-C** is enacted to read:

3 **1-C. Area of special flood hazard.** "Area of special flood hazard" means land in a
4 floodplain having a 1% or greater chance of flooding in any given year, as identified in the
5 applicable federal flood insurance study and corresponding flood insurance rate maps.

6 **Sec. 2. 38 MRSA §436-A, sub-§7-A**, as enacted by PL 2011, c. 231, §1, is repealed
7 and the following enacted in its place:

8 **7-A. Height.** "Height" means:

9 A. With respect to new or existing principal or accessory structures, including legally
10 existing nonconforming structures, located within an area of special flood hazard that
11 have been or are proposed to be constructed, relocated, reconstructed or elevated to be
12 consistent with the minimum elevation required by a local floodplain management
13 ordinance, the vertical distance between the bottom of the sill of the structure to the
14 highest point of the structure, excluding chimneys, steeples, antennas and similar
15 appurtenances that have no floor area; and

16 B. With respect to new or existing principal or accessory structures other than those
17 described in paragraph A, including legally existing nonconforming structures, the
18 vertical distance between the mean original grade at the downhill side of the structure,
19 prior to construction, and the highest point of the structure, excluding chimneys,
20 steeples, antennas and similar appurtenances that have no floor area.

21 **Sec. 3. 38 MRSA §439-A, sub-§4, ¶C-1** is enacted to read:

22 C-1. Notwithstanding the limitations on height imposed under paragraphs B and C,
23 the height of a structure that is a legally existing nonconforming principal or accessory
24 structure may be raised to, but not above, the minimum elevation necessary to be
25 consistent with the local floodplain management elevation requirement, as long as the
26 structure is relocated, reconstructed or elevated within the boundaries of the parcel so
27 that the water body or wetland setback requirement is met to the greatest practical
28 extent. This paragraph applies to structures that:

29 (1) Have been or are proposed to be relocated, reconstructed or elevated to be
30 consistent with the local floodplain management elevation requirement; and

31 (2) Are located in an area of special flood hazard.

32 **SUMMARY**

33 This bill amends how the height of a new or existing principal or accessory structure,
34 including a legally existing nonconforming structure, located in the shoreland zone is
35 measured when the structure is also located in an area of special flood hazard and there is
36 a minimum elevation required for structures by a local floodplain management ordinance.
37 This bill specifically allows for an exception to shoreland zoning height requirements for
38 legally existing nonconforming structures located in an area of special flood hazard in order
39 to be consistent with a local floodplain management elevation requirement.