

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

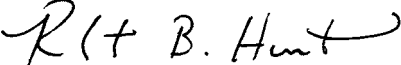
No. 1134

H.P. 720

House of Representatives, March 13, 2023

**An Act to Improve Housing Affordability by Amending the
Definition of "Subdivision" Under the Site Location of Development
Laws**

Reference to the Joint Select Committee on Housing suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative BOYLE of Gorham.

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

2 **Sec. 1. 38 MRSA §482, sub-§5**, as amended by PL 1997, c. 603, §2, is further
3 amended to read:

4 **5. Subdivision.** A "subdivision" is the division of a parcel of land into 5 or more lots
5 to be offered for sale or lease to the general public during any 5-year period, if the aggregate
6 land area includes more than 20 acres; except that when all lots are for single-family,
7 detached, residential housing, common areas or open space a "subdivision" is the division
8 of a parcel of land into ~~15~~ 20 or more lots to be offered for sale or lease to the general public
9 within any ~~5-year~~ 3-year period, if the aggregate land area includes more than ~~30~~ 50 acres.
10 The aggregate land area includes lots to be offered together with the roads, common areas,
11 easement areas and all portions of the parcel of land in which rights or interests, whether
12 express or implied, are to be offered. This definition of "subdivision" is subject to the
13 following exceptions:

14 C. Lots of 40 or more acres but not more than 500 acres may not be counted as lots
15 except where:

16 (1) The proposed subdivision is located wholly or partly within the shoreland zone;

17 C-1. Lots of more than 500 acres in size may not be counted as lots;

18 D. Five years after a subdivider establishes a single-family residence for that
19 subdivider's own use on a parcel and actually uses all or part of the parcel for that
20 purpose during that period, a lot containing that residence may not be counted as a lot;

21 E. Unless intended to circumvent this article, the following transactions may not be
22 considered lots offered for sale or lease to the general public:

23 (1) Sale or lease of lots to an abutting owner or to a spouse, child, parent,
24 grandparent or sibling of the developer if those lots are not further divided or
25 transferred to a person not so related to the developer within a 5-year period, except
26 as provided in this subsection;

27 (2) Personal, nonprofit transactions, such as the transfer of lots by gift, if those lots
28 are not further divided or transferred within a 5-year period or the transfer of lots
29 by devise or inheritance; or

30 (3) Grant of a bona fide security interest in the whole lot or subsequent transfer of
31 the whole lot by the original holder of the bona fide security interest or that person's
32 successor in interest;

33 F. In those subdivisions that would otherwise not require site location approval, unless
34 intended to circumvent this article, the following transactions may not, except as
35 provided, be considered lots offered for sale or lease to the general public:

36 (1) Sale or lease of common lots created with a conservation easement as defined
37 in Title 33, section 476, ~~provided that~~ as long as the department is made a party;
38 and

39 H. The transfer of contiguous land by a permit holder to the owner of a lot within a
40 permitted subdivision is exempt from review under this article, ~~provided that~~ as long
41 as the land was not owned by the permit holder at the time the department approved

1 the subdivision. Further division of the transferred land must be reviewed under this
2 article.

3 The exception described in paragraph F does not apply, and the subdivision requires site
4 location approval, whenever the use of a lot described in paragraph F changes or the lot is
5 offered for sale or lease to the general public without the limitations set forth in paragraph
6 F. For the purposes of this subsection only, a parcel of land is defined as all contiguous
7 land in the same ownership ~~provided that~~ as long as lands located on opposite sides of a
8 public or private road are considered each a separate parcel of land unless that road was
9 established by the owner of land on both sides of the road subsequent to January 1, 1970.
10 A lot to be offered for sale or lease to the general public is counted, for purposes of
11 determining jurisdiction, from the time a municipal subdivision plan showing that lot is
12 recorded or the lot is sold or leased, whichever occurs first, until 5 years after that recording,
13 sale or lease.

14 **SUMMARY**

15 Under the site location of development laws, the term "subdivision" includes the
16 division of a parcel of land into 15 or more lots to be offered for sale or lease to the general
17 public within any 5-year period if the aggregate land area includes more than 30 acres and
18 when all the lots are for single-family, detached, residential housing, common areas or open
19 space. This bill amends those laws to provide that the term "subdivision" includes the
20 division of a parcel of land into 20 or more lots to be offered for sale or lease to the general
21 public within any 3-year period if the aggregate land area includes more than 50 acres and
22 when all the lots are for single-family, detached, residential housing, common areas or open
23 space.