

MAINE STATE LEGISLATURE

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4/10

2 Date: 3/25/24

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MAJORITY

STATE AND LOCAL GOVERNMENT

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 STATE OF MAINE

6 SENATE

7 131ST LEGISLATURE

8 SECOND REGULAR SESSION

9 COMMITTEE AMENDMENT " A " to S.P. 894, L.D. 2101, "An Act to Strengthen
10 Shoreland Zoning Enforcement"

11 Amend the bill by striking out all of the emergency preamble.

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

14 'Sec. 1. 12 MRSA §685-C, sub-§8-A is enacted to read:

15 8-A. Shoreland zoning violations; commission authority. The commission may
16 take the following actions when an owner or occupant of land within the commission's
17 jurisdiction violates a standard, rule, permit or order adopted or issued by the commission
18 pursuant to this chapter applicable to development in a shoreland zone, as long as the
19 commission sends written notice to the last known address of the owner and occupant, if
20 applicable, by certified mail, return receipt requested, demanding the owner or occupant
21 remove, abate or otherwise correct the violation within 10 days and the violation is not
22 removed, abated or otherwise corrected in that time period:

23 A. Deny the issuance of a permit to or suspend or revoke a permit of the owner or
24 occupant for further development in the shoreland zone of the land on which the
25 violation occurred until the violation is removed, abated or otherwise corrected and any
26 penalties and court-awarded costs are paid; and

27 B. File a civil action against the owner or occupant to recover unpaid penalties, the
28 cost to remove, abate or otherwise correct the violation, court costs and reasonable
29 attorney's fees.

30 If the commission is the prevailing party in a civil action filed pursuant to this subsection,
31 the commission may claim a lien against the land on which the violation occurred for all
32 costs awarded by the court. The commission shall file a notice of a lien with the register of
33 deeds in the county in which the land is located.

COMMITTEE AMENDMENT

ROS

1 For the purposes of this subsection, "shoreland zone" means the shoreland area as described
2 in Title 38, section 435 and "occupant" means a person occupying land with the owner's
3 permission.

4 **Sec. 2. 30-A MRSA §4452, sub-§1-A** is enacted to read:

5 **1-A. Shoreland zoning violations; municipal authority.** A municipality may take
6 the following actions when an owner or occupant of land in the municipality violates a
7 shoreland zoning ordinance adopted pursuant to Title 38, chapter 3, subchapter 1, article
8 2-B, including an ordinance or standard established or imposed by the State, as long as the
9 municipality sends written notice to the last known address of the owner and occupant, if
10 applicable, by certified mail, return receipt requested, demanding the owner or occupant
11 remove, abate or otherwise correct the violation within 10 days and the violation is not
12 removed, abated or otherwise corrected in that time period:

13 A. Deny the issuance of a permit to or suspend or revoke a permit of the owner or
14 occupant for further development of the land on which the violation occurred until the
15 violation is removed, abated or otherwise corrected and any penalties and court-
16 awarded costs are paid; and

17 B. File a civil action against the owner or occupant to recover unpaid penalties, the
18 cost to remove, abate or otherwise correct the violation, court costs and reasonable
19 attorney's fees.

20 If the municipality is the prevailing party in a civil action filed pursuant to this subsection,
21 the municipality may claim a lien against the land on which the violation occurred for all
22 costs awarded by the court. The municipal officers or the officers' designee shall file a
23 notice of the lien with the register of deeds in the county in which the land is located.

24 For the purposes of this subsection, "occupant" means a person occupying land with the
25 owner's permission.

26 This subsection does not limit the powers of a municipality provided in any other provision
27 of law.

28 A suspension or revocation of a permit pursuant to paragraph A remains in effect during
29 any appeal of the suspension or revocation to a municipal board of appeals.

30 **Sec. 3. 33 MRSA §173, sub-§5,** as amended by PL 2017, c. 181, §2, is further
31 amended to read:

32 **5. Known defects.** Any known defects; and

33 **Sec. 4. 33 MRSA §173, sub-§6, ¶B,** as enacted by PL 2017, c. 181, §3, is amended
34 to read:

35 B. Any means other than a public way, in which case the seller shall disclose
36 information about who is responsible for maintenance of the means of access, including
37 any responsible road association, if known by the seller; and

38 **Sec. 5. 33 MRSA §173, sub-§7** is enacted to read:

39 **7. Notice of violation.** Detailed information on an actual or alleged violation of a
40 shoreland zoning ordinance adopted pursuant to Title 38, chapter 3, subchapter 1, article
41 2-B, including those that were state-imposed, imposed on and applicable to the property.'

COMMITTEE AMENDMENT

ROS

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
2 number to read consecutively.

3 **SUMMARY**

4 This amendment, which is the majority report of the committee, replaces the bill. It
5 authorizes, but does not require, the Maine Land Use Planning Commission and
6 municipalities to take certain actions when a violation of a law, ordinance, standard, rule,
7 permit or order occurs on land in a shoreland zone within the jurisdiction of the commission
8 or the municipality. Before taking any of the actions, the commission or municipality must
9 provide the owner and any occupant written notice of the violation and 10 days within
10 which to remove, abate or otherwise correct the violation. The actions that the commission
11 or municipality may take include:

12 1. Denying the issuance of a permit to or suspending or revoking a permit of the owner
13 or occupant for further development of all or a portion of the land on which the violation
14 occurred until the violation is removed, abated or otherwise corrected and any penalties
15 and court-awarded fees are paid;

16 2. Filing a civil action against the owner or occupant to recover unpaid penalties, the
17 cost to remove, abate or otherwise correct the violation and court costs and reasonable
18 attorney's fees necessary to file and pursue the civil action; and

19 3. Claiming a lien against the land on which the violation occurred if the commission
20 or municipality is the prevailing party in the civil action.

21 The amendment also requires persons selling property to disclose any actual or alleged
22 violations of shoreland zoning statutes, ordinances, rules or regulations.

23 **FISCAL NOTE REQUIRED**

24 (See attached)



131st MAINE LEGISLATURE

LD 2101

LR 2899(03)

An Act to Strengthen Shoreland Zoning Enforcement

Fiscal Note for Bill as Amended by Committee Amendment "A(S-611)"
Committee: State and Local Government
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Department of Agriculture, Conservation and Forestry to adopt the changes in this bill are expected to be minor and can be absorbed within existing budgeted resources.

If a municipality chooses to exercise the authority provided in the bill to take certain actions when a land owner or occupant violates a shoreline zoning ordinance, any minor costs associated with these actions are expected to be offset by revenue increases from the recoupment of unpaid penalties, attorney's fees and court costs associated with the ordinance violation.