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H.P. 35

House of Representatives, January 13, 2021

**An Act To Reduce Duplicative Permitting Review for Projects
under the Site Location of Development Laws**

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Received by the Clerk of the House on January 11, 2021. Referred to the Committee on
Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant
to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TUCKER of Brunswick.

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

2 **Sec. 1. 38 MRSA §488, sub-§19**, as amended by PL 2015, c. 28, §1, is further
3 amended to read:

4 **19. Municipal capacity.** A structure, as defined in section 482, subsection 6, that is
5 from 3 acres up to and including 7 10 acres or a subdivision, as defined in section 482,
6 subsection 5, that is made up of 15 or more lots for single-family, detached, residential
7 housing, common areas or open space with an aggregate area of from 30 acres up to and
8 including 100 acres is exempt from review under this article if it is located wholly within
9 a municipality or municipalities meeting the criteria in paragraphs A to D as determined by
10 the department and it is located wholly within a designated growth area as identified in a
11 comprehensive plan adopted pursuant to Title 30-A, chapter 187, subchapter 2. The
12 planning board of the municipality in which the development is located or an adjacent
13 municipality may petition the commissioner to review such a structure or subdivision if it
14 has regional environmental impacts. This petition must be filed within 20 days of the
15 receipt of the application by the municipality. State jurisdiction must be exerted, if at all,
16 within 30 days of receipt of the completed project application by the commissioner from
17 the municipality or within 30 days of receipt of any modification to that application from
18 the municipality. Review by the department is limited to the identified regional
19 environmental impacts. The criteria are as follows:

20 A. A municipal planning board or reviewing authority is established and the
21 municipality has adequate resources to administer and enforce the provisions of its
22 ordinances. In determining whether this criterion is met, the commissioner may
23 consider any specific and adequate technical assistance that is provided by a regional
24 council;

25 B. The municipality has adopted a site plan review ordinance. In determining the
26 adequacy of the ordinance, the commissioner may consider model site plan review
27 ordinances commonly used by municipalities in this State that address the issues
28 reviewed under applicable provisions of this article prior to July 1, 1997;

29 C. The municipality has adopted subdivision regulations. In determining the adequacy
30 of these regulations, the commissioner may consider model subdivision regulations
31 commonly used by municipalities in this State; and

32 D. The former State Planning Office or the Department of Agriculture, Conservation
33 and Forestry has determined that the municipality has a comprehensive land use plan
34 and land use ordinances or zoning ordinances that are consistent with Title 30-A,
35 chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural
36 areas and archaeological and historic sites.

37 The department, in consultation with the Department of Agriculture, Conservation and
38 Forestry, shall publish a list of those municipalities determined to have capacity pursuant
39 to this subsection. This list need not be established by rule and must be published by
40 January 1st of each year. The list must specify whether a municipality has capacity to
41 review structures or subdivisions of lots for single-family, detached, residential housing,
42 common areas or open space or both types of development. The department may recognize
43 joint arrangements among municipalities and regional organizations in determining
44 whether the requirements of this subsection are met. The department may review

1 municipalities that are determined to have capacity pursuant to this subsection for
2 compliance with the criteria in paragraphs A to D, and if the department determines that a
3 municipality does not meet the criteria, the department may modify or remove the
4 determination of capacity.

5 A modification to a development that was reviewed by a municipality and exempted
6 pursuant to this subsection or was reviewed by the department prior to a determination that
7 a municipality has capacity pursuant to this subsection is exempt as long as the modification
8 will not cause the total area of the development to exceed the maximum acreage specified
9 in this subsection for that type of development or, based upon information submitted by the
10 municipality concerning the development and modification, the department determines that
11 the modification may be adequately reviewed by the municipality.

12 **Sec. 2. 38 MRSA §489-A, sub-§1, ¶H**, as enacted by PL 1999, c. 243, §17, is
13 amended to read:

14 H. Structures as described in section 482, subsection 6 in excess of 3 acres but less
15 than ~~7~~ 10 acres.

16 **SUMMARY**

17 Under current law, a structure that is from 3 acres to 7 acres is exempt from review
18 under the site location of development laws if certain criteria are met. This bill changes
19 the upper acreage limit from 7 acres to 10 acres.