

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in the emergency preamble in the 2nd paragraph in the 3rd and 4th lines (page 1, lines 5 and 6 in L.D.) by striking out the following: ", and those rules are not consistent with legislative intent"

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

‘Sec. 1. PL 2011, c. 538, §15 is repealed.

Sec. 2. Repeal of current rules. The Department of Environmental Protection shall repeal rules adopted pursuant to Public Law 2011, chapter 538, section 15.

Sec. 3. Coastal sand dune rulemaking. The Department of Environmental Protection may adopt rules allowing for the reconstruction of an existing residential building whose entire footprint is in a back dune to be relocated in a frontal dune on the same lot on which the building is located if:

1. The existing residential building:

A. Is a permanent structure;

B. Existed in a back dune on the lot and was landward of an existing seawall prior to June 8, 2006;

C. Was originally constructed in a back dune after August 1, 1983, in accordance with a permit issued by the department under the Natural Resources Protection Act; and

D. Is not severely damaged by wave action from an ocean storm;

2. The entire residential building when reconstructed:

A. Is landward of an existing seawall;

B. Has a footprint that is 2,500 square feet or less, that is not located in a V-zone as identified on the effective Flood Insurance Rate Maps issued by the Federal Emergency Management Agency and that does not exceed 20% of the total area of the lot. The land area within the V-zone may not be included as part of the lot for purposes of this paragraph and up to 500 square feet of additional development may occur on the lot in order to provide parking and access, including handicap access;

C. Is elevated on posts as required in rules of the department regarding sand and water movement; and

D. Is no more than 35 feet in height, except that it may exceed 35 feet for the sole purpose of meeting the elevation requirements in rules of the department regarding sand and water movement;

3. The lot on which the residential building is reconstructed:

A. Was a deeded lot of record as of August 1, 1983;

B. Is not precluded from development by any other federal, state or local requirements; and

C. Has an adjacent lot on each of its sides, along the length of the frontal dune, that contains a residential building that is located within 100 feet of the lot line and that existed on January 1, 2003; and

4. Relocation of the residential building on the frontal dune is minimized to the extent practicable, as determined by the department.

In approving reconstruction or relocation as authorized under this section, the rules may require sand dune mitigation and enhancement measures, including, but not limited to, restoring the dune topography and elevating the crest of the sand dune to at least one foot above the 100-year floodplain or wave run-up level and enhancing with native vegetation the portions of the lot that are not covered by buildings or parking areas.

Notwithstanding the Maine Revised Statutes, Title 38, section 480-AA, the initial rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and may be adopted by the Commissioner of Environmental Protection in accordance with Title 38, section 341-H, subsection 2. Any amendments to the rules adopted pursuant to this section are major substantive rules and may be adopted by the Board of Environmental Protection in accordance with Title 38, section 341-H, subsection 1.'

SUMMARY

This amendment amends the bill's emergency preamble and replaces the rest of the bill. It repeals Public Law 2011, chapter 538, section 15 and directs the Department of Environmental Protection to repeal rules adopted pursuant to that law. The bill provides statutory standards for certain reconstruction in a coastal sand dune. The amendment strikes the statutory standards proposed in the bill and instead authorizes the department to adopt new rules and identifies the standards the department must use in that rulemaking.

FISCAL NOTE REQUIRED **(See attached)**