

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

S.P. 547 - L.D. 1648

**An Act To Clarify the Site Location of Development Laws Regarding
Exemptions for Previously Developed Sites**

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

Sec. 1. 38 MRSA §488, first ¶, as amended by PL 1997, c. 72, §3, is further amended to read:

This article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying 100 kilovolts or more, nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way. For purposes of this paragraph, development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under this article. When determining if development meets the definition of "development of state or regional significance that may substantially affect the environment" and therefore is subject to review under this article, the department may not consider development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. When reviewing a proposal for development of state or regional significance that may substantially affect the environment under this article, the department may not consider in the review any development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph.

Sec. 2. 38 MRSA §488, sub-§15, as amended by PL 1997, c. 748, §4, is further amended to read:

15. Exemption for former military bases. Development on a military base at the time ownership of the military base is acquired by a state or local development authority is exempt from review under this article. Subsequent transfer of ownership or lease of a former military base or any portion of a former military base by a state or local development authority to another entity does not affect the exemption granted under this subsection. Development proposed or occurring on a former military base after

ownership of the military base is acquired by a state or local development authority is subject to review under this article, except ~~that section 482, subsection 2, paragraph E does not apply to the development~~ to the extent that the development reuses a building and associated facilities in existence on September 29, 1995.

For purposes of this subsection, "military base" means all property under the ownership or control of a federal military authority prior to the acquisition of ownership by a state or local development authority, the ownership of which is subsequently acquired by a state or local development authority. For purposes of this subsection, "ownership" means a fee interest or leasehold interest in property.

A. Development that is not exempt under this subsection is subject to review under this article if it meets the definition of "development of state or regional significance that may substantially affect the environment."

B. When reviewing a proposal for development of state or regional significance that may substantially affect the environment, the department may not consider in the review any development that is exempt from review pursuant to this subsection.

Sec. 3. 38 MRSA §488, sub-§§26, 27 and 28 are enacted to read:

26. Exemption for existing ski area facilities. New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article as provided in this subsection.

A. New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article if:

(1) The additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total;

(2) The construction or modification does not involve a division of the parcel of land;

(3) The construction or modification is not of a building having an area in excess of 3,500 square feet; and

(4) It is construction or modification of equipment or facilities that are ancillary to and necessary for the operation of the ski area facility permitted pursuant to this article, including, but not limited to, snowmaking equipment, lift towers, lights, signs, fences, water or air pumps, pump houses and storage buildings.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required for new construction at or a modification of a permitted ski area facility, the permittee shall provide plans for the

new development, as well as for those activities that have been undertaken pursuant to this subsection.

27. Exemption for educational institutions. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article as provided in this subsection. For purposes of this subsection, "educational institution" means any private or public school or postsecondary institution.

A. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article if the additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required at an educational institution permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

D. Nothing in this subsection authorizes a person to undertake an activity on a parcel of land affected by an order or permit issued by the department that is contrary to that order or permit.

28. Applicability of exemptions. Unless otherwise specifically provided, nothing in this section exempts any activity from any requirements under this Title, rules adopted pursuant to this Title or the terms or conditions of a license, permit or order issued by the board or the commissioner.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor