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Presenting LD 1787

Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Statutes May 9, 2023

Senator Pierce, Representative Gere, and the Honorable members of the Joint Standing Committee on Housing. My name is Jack Ducharme and I proudly represent the people of Cornville, Madison and Norridgewock in the Maine House of Representatives. I come before you today to present LD 1787, Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Statutes.

Maine’s subdivision law was first enacted in 1969 to preserve public health, safety and general welfare, to support and encourage Maine’s natural resource-based economy and strong environmental protections primarily in the unorganized and deorganized townships of the State. This is in MRSA Title 12, Chapter 206-A called Use Regulation. It is further clarified in MRSA Title 38, Chapter 3, subchapter 1, Article 6 called Site Location of Development. My bill as presented failed to include a third and perhaps the most important reference to Subdivision Statutes, that is MRSA 30A, Part 2, Subpart 6-A, Chapter 187 called Planning and Land Use Regulation. I offer an amendment to this Resolve to include Title 30A, Part 2, Subpart 6-A, Chapter 187 in the review.

Each of these sections of Maine statute has an impact on land use planning and development, particularly in the area of subdivision law. Each has items that pertain to that title’s function in statute. The statute deals with land use management, with environmental protections as well as municipal growth. Couple this with Maine’s long held “Home Rule” protections for municipalities and you have a conglomeration of laws that can be difficult to understand, harder to manage and easy to unwittingly violate. Further, many of the practices of towns have layered on levels of complexity in the application process that discourages many from even applying for subdivision approval.

I reached out to several towns to see what they expected to see from an someone requesting subdivision approval. I got answers that equaled the number of towns that I heard from. Every town has a slight difference in the

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process that, while that is their right, often confuses developers and others attempting subdivision approval.

Some towns require applications in triplicate with “wet” signatures on all. Another town requires 8 copies of the application form, attachments, and plan drawings reduced to 11 X 17 size pages. Another requires 3 copies of plan drawings at a size of 24 X 36 inches. Some require all documents to be delivered in person.

I have researched some of the rules of subdivision such as the “no more than 3 lots in 5 years” rule. I cannot find any reference as to why this rule is in place. This rule should be part of the **complete review of the statute to understand its intent and to consider if its meeting the objective.** We should also consider that many Mainers especially in more rural parts of the state are having difficulty finding ways to create housing or other opportunities for the next generation because of subdivision procedures and other aspects of our systems that effect rural land values. This perspective should be front and center as we work to review our antiquated laws.

As we look forward to managing the growth of our state and protecting our natural resource areas, it is critical that our regulations reflect 21st century thinking and practices. The current law is a one size fits all approach to regulating development. This is not practical with a state as large and as diverse as Maine. What works well and fits in Cumberland County may be completely unworkable in Somerset County. The current statute has many exemptions that lack clarity and create confusion. Like many regulations passed in Augusta, we fix one area of the law that was an “unforeseen consequence” only to find another piece that got affected by the fix that we need to address later on. It is only through a comprehensive review of the regulations that we can effectively address the concerns and meet the needs of the people of Maine.

As we struggle with housing development in our State, it is time that we take a step back and look at how we are managing housing development in Maine. While I would be the last person in Maine to do anything that minimizes home rule for our municipalities, I believe that we must look at these statutes to ensure that we are effectively managing growth while protecting our natural resources. Many municipalities don’t have the resources to review and develop these regulations effectively. I believe that it is incumbent on the State to provide recommendations to our towns and counties for land use management.

In closing, I ask for your support of amending LD 1787 to include Title 30A, Part 2, Subpart 6-A, Chapter 187 in the review. While the resolve changes nothing currently in Maine or municipal law regarding subdivision of land, it provides the opportunity for a comprehensive look at how we are managing our land resources in Maine. A successful review will provide necessary updates in process and procedure to bring Maine’s land use regulation into the 21st century and position us for the future. I ask for your support of LD 1787.

Thank you.

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