

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1272

H.P. 847

House of Representatives, March 25, 2025

An Act to Address the Housing Crisis by Reducing Barriers to Building More Accessory Dwelling Units

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Speaker FECTION of Biddeford.
Cosponsored by Senator PIERCE of Cumberland and
Representatives: JULIA of Waterville, KESSLER of South Portland, PUGH of Portland.

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

2 Sec. 1. 25 MRSA §2463-B is enacted to read:

3 **§2463-B. Fire protection in accessory dwelling units**

4 An accessory dwelling unit, as defined in Title 30-A, section 4301, subsection 1-C,
5 located within an existing dwelling unit or attached to or sharing a wall with an existing
6 dwelling unit is not required to have a fire sprinkler system as long as the wall between the
7 accessory dwelling unit and the existing dwelling unit meets the fire resistance rating for
8 town houses without fire sprinkler systems established in Department of Public Safety
9 rules. Accessory dwelling units that are not located within an existing dwelling unit or
10 attached to or sharing a wall with an existing dwelling unit are not required to have a fire
11 sprinkler system. For purposes of this section, "dwelling unit" includes, but is not limited
12 to, a structure with up to 3 separate dwelling units, including accessory dwelling units, and
13 "fire sprinkler system" has the same meaning as in Title 32, section 1371, subsection 5.

14 This section does not require an existing dwelling unit to have fire sprinkler systems if
15 the total number of dwelling units on the lot is 5 or less.

16 Sec. 2. 30-A MRSA §4364-A, sub-§1, as amended by PL 2023, c. 192, §6, is
17 further amended by amending the first blocked paragraph to read:

18 A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2
19 ~~3 dwelling units: one additional dwelling unit within or attached to an existing structure or~~
20 ~~one additional detached dwelling unit, or one of each.~~

21 Sec. 3. 30-A MRSA §4364-A, sub-§1-C is enacted to read:

22 **1-C. Sale or transfer allowed.** A municipality may not restrict or otherwise limit an
23 owner's ability to sell or transfer separately a dwelling unit located on that owner's lot.

24 Sec. 4. 30-A MRSA §4364-A, sub-§2, as amended by PL 2023, c. 192, §8, is
25 repealed and the following enacted in its place:

26 **2. Zoning requirements.** With respect to dwelling units allowed under this section,
27 a municipal zoning ordinance must allow additional accessory dwelling units on a lot that
28 contains fewer than 4 dwelling units that are single-family, duplex or triplex dwelling units
29 or accessory dwelling units, or some combination of those, up to a total of 4 dwelling units
30 per lot.

31 A. If more than 4 dwelling units have been constructed on a lot as a result of the
32 allowance under this section or section 4364-B, the lot is not eligible for any additional
33 increases in density except as allowed by the municipality.

34 B. A municipal zoning ordinance may establish a prohibition or an allowance for lots
35 where a dwelling unit in existence after the implementation date of this Act is torn
36 down and an empty lot results.

37 Sec. 5. 30-A MRSA §4364-B, sub-§1, as amended by PL 2023, c. 192, §12, is
38 further amended to read:

39 **1. Use permitted.** Except as provided in Title 12, chapter 423-A, a municipality shall
40 allow an accessory dwelling unit to be located on the same lot as a single-family dwelling

1 unit in any area in which residential uses are permitted, including as a conditional use, in
2 accordance with this section.

3 **Sec. 6. 30-A MRSA §4364-B, sub-§3, ¶A**, as amended by PL 2023, c. 192, §15,
4 is repealed and the following enacted in its place:

5 A. If a lot contains fewer than 4 units that are single-family, duplex or triplex dwelling
6 units or accessory dwelling units, or some combination of those, additional accessory
7 dwelling units must be allowed but only up to a total of 4 dwelling units per lot; and

8 **Sec. 7. 30-A MRSA §4364-B, sub-§3, ¶B**, as amended by PL 2023, c. 192, §15,
9 is repealed.

10 **Sec. 8. 30-A MRSA §4364-B, sub-§3, ¶C**, as enacted by PL 2023, c. 192, §15, is
11 amended to read:

12 C. An accessory dwelling unit is must be allowed on a lot that does not conform to the
13 municipal zoning ordinance if the accessory dwelling unit does not further increase the
14 nonconformity.

15 **Sec. 9. 30-A MRSA §4364-B, sub-§4, ¶A**, as enacted by PL 2021, c. 672, §6, is
16 amended to read:

17 A. A municipality shall exempt ~~an~~ the first accessory dwelling unit on a lot from any
18 density requirements or calculations related to the area in which the accessory dwelling
19 unit is constructed. Subsequent accessory dwelling units on that same lot are subject
20 to density requirements or calculations related to the area in which the accessory
21 dwelling unit is constructed.

22 **Sec. 10. 30-A MRSA §4364-B, sub-§4, ¶E** is enacted to read:

23 E. An accessory dwelling unit located within an existing dwelling unit or attached to
24 or sharing a wall with an existing dwelling unit is not required to have a fire sprinkler
25 system as long as walls of the accessory dwelling unit separating the units meet the fire
26 resistance rating for town houses without fire sprinkler systems established in
27 Department of Public Safety rules. Accessory dwelling units that are not located within
28 an existing dwelling unit or attached to or sharing a wall with an existing dwelling unit
29 are not required to have a fire sprinkler system. For purposes of this subsection, "fire
30 sprinkler system" has the same meaning as in Title 32, section 1371, subsection 5.

31 **Sec. 11. 30-A MRSA §4364-B, sub-§4, ¶F** is enacted to read:

32 F. A municipality shall allow the construction or occupancy of an accessory dwelling
33 unit on a lot even if the owner of the lot where the accessory dwelling unit is located
34 does not reside in a dwelling unit on that lot.

35 **Sec. 12. 30-A MRSA §4364-B, sub-§4, ¶G** is enacted to read:

36 G. A municipality may not restrict or otherwise limit an owner's ability to separately
37 sell or transfer an accessory dwelling unit located on the owner's lot.

38 **Sec. 13. 30-A MRSA §4401, sub-§4**, as amended by PL 2023, c. 79, §1, is further
39 amended to read:

40 **4. Subdivision.** "Subdivision" means the division of a tract or parcel of land into 3 5
41 or more lots within any 5-year period that begins on or after ~~September 23, 1971~~ December

31, 2025. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 5 or more dwelling units within a 5-year period, the construction or placement of 3 5 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 5 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 5 or more lots, the ~~first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot that creates the 5th lot, by whomever accomplished, is considered to create a subdivision, unless:~~

(1) ~~Both~~ All dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously

1 exempt division creates a lot or lots for the purposes of this subsection. "Person related
2 to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild
3 related by blood, marriage or adoption. A gift under this paragraph can not be given
4 for consideration that is more than 1/2 the assessed value of the real estate.

5 D-5. A division accomplished by a gift to a municipality if that municipality accepts
6 the gift does not create a lot or lots for the purposes of this definition, unless the intent
7 of the transferor is to avoid the objectives of this subchapter.

8 D-6. A division accomplished by the transfer of any interest in land to the owners of
9 land abutting that land does not create a lot or lots for the purposes of this definition,
10 unless the intent of the transferor is to avoid the objectives of this subchapter. If the
11 real estate exempt under this paragraph is transferred within 5 years to another person
12 without all of the merged land, then the previously exempt division creates a lot or lots
13 for the purposes of this subsection.

14 E. The division of a tract or parcel of land into ~~3~~ 5 or more lots and upon each of which
15 lots permanent dwelling structures legally existed before ~~September 23, 1971~~
16 December 31, 2025 is not a subdivision.

17 F. In determining the number of dwelling units in a structure, the provisions of this
18 subsection regarding the determination of the number of lots apply, including
19 exemptions from the definition of a subdivision of land.

20 H-2. This subchapter may not be construed to prevent a municipality from enacting an
21 ordinance under its home rule authority that otherwise regulates land use activities.

22 A municipality may not enact an ordinance that expands the definition of "subdivision"
23 except as provided in this subchapter. A municipality that has a definition of
24 "subdivision" that conflicts with the requirements of this subsection at the time this
25 paragraph takes effect shall comply with this subsection no later than ~~January 1, 2021~~
26 June 30, 2026. Such a municipality must file its conflicting definition at the county
27 registry of deeds by ~~June 30, 2020~~ December 31, 2025 for the definition to remain valid
28 for the grace period ending ~~January 1, 2021~~ June 30, 2026. A filing required under this
29 paragraph must be collected and indexed in a separate book in the registry of deeds for
30 the county in which the municipality is located.

31 I. The grant of a bona fide security interest in an entire lot that has been exempted from
32 the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of
33 that entire lot by the original holder of the security interest or that person's successor
34 in interest, does not create a lot for the purposes of this definition, unless the intent of
35 the transferor is to avoid the objectives of this subchapter.

36 J. Unless the intent of a transferor is to avoid the objectives of this subchapter, the
37 division of a tract or parcel of land accomplished by the transfer of any interest in the
38 land to a holder does not create a lot or lots for purposes of this definition if:

39 (1) The transferred interest, as expressed by conservation easement, binding
40 agreement, declaration of trust or otherwise, is to be permanently held for one or
41 more of the following conservation purposes:

42 (a) Retaining or protecting the natural, scenic or open space values of the land;

1 (b) Ensuring the availability of the land for agricultural, forest, recreational or
2 open space use;

3 (c) Protecting natural resources; or

4 (d) Maintaining or enhancing air quality or water quality; and

5 (2) The transferred interest is not subsequently further divided or transferred
6 except to another holder.

7 As used in this paragraph, "holder" has the same meaning as in Title 33, section 476,
8 subsection 2.

9 **Sec. 14. 30-A MRSA §4402, sub-§6**, as amended by PL 2019, c. 174, §2, is further
10 amended to read:

11 **6. Division of new or existing structures.** Beginning ~~July 1, 2018~~ January 1, 2026,
12 a division of a new or existing structure into ~~3~~ 5 or more dwelling units whether the division
13 is accomplished by sale, lease, development or otherwise in a municipality where the
14 project is subject to municipal site plan review.

15 A. For the purposes of this subsection, "municipal site plan review" means review
16 under a municipal ordinance that sets forth a process for determining whether a
17 development meets certain specified criteria, which must include criteria regarding
18 stormwater management, sewage disposal, water supply and vehicular access and
19 which may include criteria regarding other environmental effects, layout, scale,
20 appearance and safety.

21 B. The municipal reviewing authority in each municipality shall determine whether a
22 municipal site plan review ordinance adopted by the municipality meets the
23 requirements of paragraph A.

24 **Sec. 15. 33 MRSA §1601-103, sub-§(7)**, as amended by PL 1983, c. 190, is further
25 amended to read:

26 (7) "Condominium" means real estate, portions of which are designated for separate
27 ownership and the remainder of which is designated for common ownership solely by the
28 owners of those portions under a declaration, or an amendment to a declaration, duly
29 recorded pursuant to this Act. Real estate is not a condominium unless the undivided
30 interests in the common elements are vested in the unit owners. Any real estate
31 development consisting exclusively of clustered, detached, ~~single-family~~ single-family
32 residences is not a condominium, unless so designated in the declaration. More than one
33 dwelling unit, including, but not limited to, an accessory dwelling unit, located on a single
34 lot, but not all owned by the same person, is not a condominium, unless so designated in
35 the declaration;

36 **Sec. 16. Effective dates.** That section of this Act that amends the Maine Revised
37 Statutes, Title 30-A, section 4401, subsection 4 takes effect December 31, 2025. That
38 section of this Act that amends Title 30-A, section 4402, subsection 6 takes effect January
39 1, 2026.

SUMMARY

This bill allows up to 4 either single-family, duplex, triplex or accessory dwelling units on a single lot. The bill exempts only the first accessory dwelling unit on a lot from municipal housing density requirements. It prohibits a municipality from adopting an ordinance or other restriction that requires the owner of the lot to reside in one of the units on the lot. It prohibits a municipality from adopting an ordinance or other restriction that requires a fire sprinkler system to be installed in certain accessory dwelling units. It amends the definition of "subdivision" from a division of a tract or parcel of land into 3 or more lots to a division of a tract or parcel of land into 5 or more lots. It clarifies that an accessory dwelling unit that otherwise complies with applicable state and local zoning requirements must be allowed on a nonconforming lot as long as the accessory dwelling unit does not further increase the nonconformity.