

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

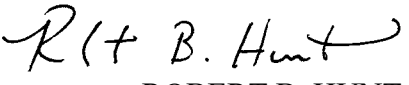
No. 1921

H.P. 1282

House of Representatives, May 6, 2025

An Act to Create a Statewide Housing Resolution Board

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


ROBERT B. HUNT
Clerk

Presented by Representative GERE of Kennebunkport.

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

2 **Sec. 1. 4 MRSA §18-C** is enacted to read:

3 **§18-C. Housing Resolution Board**

4 **1. Board established.** There is established within the Administrative Office of the
5 Courts the Housing Resolution Board, referred to in this section as "the board," to hear
6 appeals of final decisions by a municipal reviewing authority regarding housing
7 development and mixed-use development that includes housing.

8 **2. Board authorized to hear appeals.** Notwithstanding any provision of law to the
9 contrary, the board is authorized to hear appeals from municipal reviewing authorities, such
10 as a municipal board of appeals established pursuant to Title 30-A, section 2691, planning
11 board, site plan board, design review board, historic preservation review board or other
12 review board created by municipal charter or ordinance. The decision must be a final
13 decision as described in Title 30-A, section 4482-B regarding housing development or
14 mixed-used development that includes housing.

15 **3. Membership; appointment.** The Chief Justice of the Supreme Judicial Court, or
16 the justice's designee, shall appoint 3 members to the board with experience and knowledge
17 of land use law or housing development. One member must be an attorney licensed to
18 practice law in the State and one member must be a professional engineer or land surveyor.

19 **4. Term; chairs; compensation; vacancy.** Board members serve 5-year terms or
20 until a successor is appointed, whichever is later. The initial members of the board serve
21 staggered terms of 3, 4 and 5 years. The Chief Justice of the Supreme Judicial Court, or
22 the justice's designee, shall designate one member as chair to serve in that capacity for the
23 duration of the member's term. The Chief Justice, or the justice's designee, shall establish
24 compensation for board members and for the payment of expenses. Any vacancy on the
25 board must be filled for the unexpired term of the vacant seat.

26 **5. Conflicts of interest.** Board members shall avoid actual and perceived conflicts of
27 interest with their duties as a board member. A board member may not represent a party,
28 testify as an expert witness or render any professional service for any party or interest
29 before the board, and any member having an interest in a matter before the board is
30 disqualified to act on that appeal.

31 **6. Removal.** A board member may be removed by the Chief Justice of the Supreme
32 Judicial Court, or the justice's designee, for inefficiency, neglect of duty or malfeasance in
33 performance of the member's duties.

34 **7. Duties.** The board has the power and authority to and shall hear and affirm, reverse
35 or modify, in whole or in part, appeals of a final decision of a municipal reviewing authority
36 under subsection 2 regarding questions of housing and housing development. The powers
37 and duties under this subsection include, but are not limited to, appeals concerning:

38 A. Decisions on subdivisions or site plans;

39 B. Decisions on variances, special exceptions, administrative appeals and ordinance
40 administration;

41 C. The use of innovative land use controls;

42 D. Growth management controls and interim growth management controls;

1 E. Decisions of historic district commissions, heritage commissions and conservation
2 commissions;

3 F. Decisions on other municipal permits and fees applicable to housing and housing
4 developments; and

5 G. Decisions on mixed-use combinations of residential and nonresidential uses. Such
6 different uses may occur on separate properties as long as the properties are all part of
7 a common scheme of development.

8 **8. Timing of appeals.** Appeals must be filed with the board within 30 days of the
9 final land use decision of a municipal reviewing authority. At the same time an appeal is
10 filed with the board, the appellant shall notify the municipal reviewing authority of the
11 appeal.

12 A. The municipal reviewing authority shall within 30 days of receipt of the notice of
13 appeal submit to the board a certified record of its proceedings on the matter subject to
14 the appeal.

15 B. The board shall hold a hearing on the merits within 90 days of its receipt of a notice
16 of appeal.

17 C. The board shall issue a written decision on an appeal within 60 days after
18 conducting a hearing on the merits.

19 **9. Parties to the appeal.** After local remedies have been exhausted, appeals may be
20 brought before the board by an applicant to the municipal reviewing authority, or by any
21 other aggrieved or injured party who demonstrates legal standing to appeal. The
22 municipality shall be a party to the action. If the applicant is not the party initiating the
23 action before the board, then the applicant is automatically an intervenor. The board shall
24 grant intervenor status to abutters and to any other aggrieved or injured party who
25 demonstrates legal standing to appeal.

26 **10. Notice.** The board shall serve written notice of the time, place and cause of any
27 hearing upon all parties at least 20 days prior to the hearing date.

28 **11. Jurisdiction.** In matters within its authority, the board has concurrent jurisdiction
29 with the Superior Court. An election by any party to bring an action before the board waives
30 any right to bring an action in the Superior Court. At any time during an appeal to the
31 board, if the board determines that it does not have jurisdiction to hear the appeal, the
32 appellant has 30 days to file an appeal with the Superior Court.

33 **12. Automatic stay; dismissal.** An appeal to the board of a final decision of a
34 municipal reviewing authority that has previously been or is subsequently included in an
35 appeal in Superior Court by another party to the final decision of the municipal reviewing
36 authority, or by any other aggrieved or injured party who demonstrates legal standing to
37 appeal, must automatically be stayed by the Superior Court to provide the party with
38 standing the opportunity to intervene in the matter before the board. If intervenor status is
39 granted, the stay of the Superior Court action regarding those claims continues during the
40 pendency of the appeal to the board. After the board has decided the appeal, the Superior
41 Court shall dismiss the matter before it to the extent the matter has been resolved by the
42 board. Any claim included in an appeal to Superior Court that is not within the board's
43 authority is not subject to the automatic stay.

13. Subpoena power; administration of oaths. The board has the same authority to issue subpoenas, administer oaths and compel the attendance of witnesses to proceedings before it as exists for the Superior Court.

14. Perjury. Any testimony given by a person duly sworn in an action before the board is subject to the penalties of perjury.

15. Hearing procedure; record. Appeals to the board must be consistent with appeals to the Superior Court. Appeals must be on the written record of the municipal reviewing authority certified by a notary public, and, except in such cases as justice may warrant, in the sole discretion of the board, additional evidence may not be introduced. The rules of evidence do not strictly apply. The board shall record the proceedings of any hearing before it and shall make the recordings available to the public for inspection and viewing from the date of the hearing to a date 15 business days after the board has made a final decision on the appeal. Decisions of the board must be reduced to writing and signed by a quorum of the board, served upon the parties and made available to the public upon request.

16. Standard of review. The board may not reverse or modify a final decision of a municipal reviewing authority except for errors of law or if the board is persuaded by the balance of probabilities, on the evidence before it, that the final decision of the municipal reviewing authority is unreasonable. If the appeal is of a final decision regarding an affordable housing development, the board may also reverse or modify a decision if the municipality's land use ordinances or requirements do not provide a reasonable and realistic opportunity for the development of affordable housing or if the municipal reviewing authority imposed conditions on approval that render the proposal economically infeasible.

17. Remedies. In exercising its authority under this section, the board has the power to award all remedies available to the Superior Court in similar cases, including permission to develop the proposed housing and to award costs and reasonable attorney's fees.

18. Filing and enforcement of decisions. The board shall file a certified copy of a final decision in the Superior Court of the county in which the municipal reviewing authority is located. The judgment may be enforced in the same manner as a final Superior Court judgment.

19. Appeal. Decisions of the board may be appealed to the Supreme Judicial Court by any party.

20. Procedures and rules. The court may adopt administrative orders and court rules to govern the practice, procedure and administration of the board.

SUMMARY

This bill establishes the Housing Resolution Board within the judicial branch. The board has concurrent jurisdiction with the Superior Court to hear appeals of final decisions by municipal reviewing authorities regarding housing and housing development. Decisions of the board may be appealed to the Supreme Judicial Court.