

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1926

H.P. 1287

House of Representatives, May 6, 2025

An Act to Require Increased Housing Density or Lower Minimum Lot Sizes for Workforce Housing

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

A handwritten signature in black ink, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.
Cosponsored by Senator BALDACCI of Penobscot and
Representatives: ANKELES of Brunswick, COPELAND of Saco, Speaker FECTION of
Biddeford, GERE of Kennebunkport, MALON of Biddeford, ROEDER of Bangor, Senators:
President DAUGHTRY of Cumberland, TIPPING of Penobscot.

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

2 **Sec. 1. 30-A MRSA §4364-D** is enacted to read:

3 **§4364-D. Workforce housing development**

4 Notwithstanding any provision of law to the contrary, for a workforce housing
5 development approved on or after the implementation date, this section applies.

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Alternative minimum lot size" means a minimum lot size that is less than the
9 minimum lot size required by statute or municipal ordinance.

10 B. "Area median income" means the median income for an area as defined by the
11 United States Department of Housing and Urban Development under the United States
12 Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

13 C. "Implementation date" means January 1, 2026 for municipalities for which
14 ordinances may be enacted by the municipal officers without further action or approval
15 by the voters of the municipality and July 1, 2026 for all other municipalities.

16 D. "Workforce housing development" means a housing development with at least 5
17 dwelling units in which at least 50% of the dwelling units are workforce housing units.

18 E. "Workforce housing unit" means a dwelling unit that is offered for sale or rent to an
19 individual whose income is less than 220% of the area median income.

20 **2. Density increases for workforce housing developments.** A municipality shall
21 allow workforce housing developments wherever single-family or multifamily residential
22 housing is allowed. A municipality shall allow a density increase for workforce housing
23 developments as follows:

24 A. For a workforce housing development in which workforce housing units are
25 available for rent or sale only to households whose income is between 80% and 100%
26 of the area median income, a dwelling unit density increase of at least 75% of the base
27 density that is otherwise allowed in the location. At least 50% of the increase in the
28 number of units must be sold or rented to households whose income is within the limits
29 set out in this paragraph;

30 B. For a workforce housing development in which workforce housing units are
31 available for rent or sale only to households whose income is between 101% and 120%
32 of the area median income, a dwelling unit density increase of at least 60% of the base
33 density that is otherwise allowed in the location. At least 50% of the increase in the
34 number of units must be sold or rented to households whose income is within the limits
35 set out in this paragraph;

36 C. For a workforce housing development in which workforce housing units are
37 available for rent or sale only to households whose income is between 121% and 180%
38 of the area median income, a dwelling unit density increase of at least 45% of the base
39 density that is otherwise allowed in the location. At least 50% of the increase in the
40 number of units must be sold or rented to households whose income is within the limits
41 set out in this paragraph; and

1 D. For a workforce housing development in which workforce housing units are
2 available for rent or sale only to households whose income is between 181% and 220%
3 of the area median income, a dwelling unit density increase of at least 30% of the base
4 density that is otherwise allowed in the location. At least 50% of the increase in the
5 number of units must be sold or rented to households whose income is within the limits
6 set out in this paragraph.

7 A municipality may not require more than one off-street parking space for every 3
8 workforce housing development units.

9 **3. Density increase; blended percentage.** When a workforce housing development
10 includes multiple dwelling units at different levels of income restriction, the municipality
11 in which the development is located shall allow the workforce housing development to
12 apply a blended percentage to determine the overall density increase permitted. The
13 blended percentage must be determined by the mean density increase percentage of all
14 workforce housing units in the development.

15 **4. Alternative minimum lot size.** An alternative minimum lot size is allowed for a
16 workforce housing development located where single-family or multifamily dwelling units
17 are allowed when the alternative minimum lot size results in a greater number of dwelling
18 units in the development than would result from the density increase allowed under
19 subsection 2, as follows:

20 A. For a workforce housing development in which workforce housing units are
21 available for rent or sale only to households whose income is between 80% and 100%
22 of the area median income, an alternative minimum lot size of at least 90% less than
23 the lot size otherwise allowed in the location;

24 B. For a workforce housing development in which workforce housing units are
25 available for rent or sale only to households whose income is between 101% and 120%
26 of the area median income, an alternative minimum lot size of at least 75% less than
27 the lot size otherwise allowed in the location;

28 C. For a workforce housing development in which workforce housing units are
29 available for rent or sale only to households whose income is between 121% and 180%
30 of the area median income, an alternative minimum lot size of at least 65% less than
31 the lot size otherwise allowed in the location; and

32 D. For a workforce housing development in which workforce housing units are
33 available for rent or sale only to households whose income is between 181% and 220%
34 of the area median income, an alternative minimum lot size of at least 50% less than
35 the lot size otherwise allowed in the location.

36 **5. Municipal regulation.** A workforce housing development must comply with
37 municipal ordinances for setbacks, height limitations and other requirements that are not
38 unreasonably restrictive of implementing the intent of this section, including shoreland
39 zoning and water and wastewater services. An owner of the workforce housing
40 development who complies with section 4364, subsection 5 meets municipal requirements
41 for water and wastewater services.

42 **6. Workforce income requirement.** A potential tenant or purchaser of a workforce
43 housing unit must meet, at the time of tenancy or date of purchase, the applicable income
44 limitations set out in subsections 2 and 4. A tenant or purchaser of a workforce housing

1 unit may not be required to vacate or sell the workforce housing unit if the tenant's or
2 purchaser's future income exceeds the area median income requirement imposed at the time
3 of rental or purchase.

4 The income requirement does not apply to units within a workforce housing development
5 that are not designated as workforce housing units.

6 **7. Calculation of density, size or number.** Determination of compliance with
7 municipal requirements that are based, in whole or in part, on the size of the workforce
8 housing development structure or the number of units or lots in a workforce housing
9 development must be based on the size of the structure or number of units or lots prior to a
10 dwelling unit density increase under subsection 2 or an alternative minimum lot size
11 allowance under subsection 4.

12 **8. Compliance with state or local requirements.** Notwithstanding any provision of
13 law to the contrary, a workforce housing development that receives a density increase
14 pursuant to this section must be considered in compliance with any state or local
15 requirement that a certain number or percentage of units in a housing development be
16 affordable housing units as defined by the state or local requirement.

17 **9. Declaration of restrictive covenant.** The owner of a workforce housing
18 development shall record with the appropriate registry of deeds a declaration of restrictive
19 covenant, on a form developed by the Maine State Housing Authority, that includes the
20 following deed restrictions:

21 A. That, for a period of 30 years from the date the workforce housing development
22 received all necessary state and local approvals or from the date the first workforce
23 housing unit in the development is rented, whichever is later, all tenants of the
24 workforce housing unit are subject to the income requirements of this section at the
25 time of signing a rental agreement and the unit must be the tenant's primary residence;

26 B. That, for a period of 30 years from the date the workforce housing development
27 received all necessary state and local approvals or from the date the first workforce
28 housing unit in the development is sold, whichever is later, all purchasers of the
29 workforce housing unit are subject to the income requirements of this section and the
30 unit must be the purchaser's primary residence; and

31 C. That the municipality in which the workforce housing development is located has
32 the right to enforce the restrictive covenants.

33 The declaration must be filed within 30 days of receiving approval from the municipality
34 that a density increase or alternative minimum lot size is granted for the workforce housing
35 development or within 30 days of purchasing the real estate where the development will be
36 located, whichever is later.

37 **10. Record retention and compliance.** The owner, or agent of the owner, of a
38 workforce housing unit designated as a workforce housing unit for rent shall keep records
39 on file throughout the tenancy of a tenant, documenting the tenant's compliance with the
40 income requirements of this section. The purchaser of a workforce housing unit designated
41 as a workforce housing unit for sale shall recite in the deed for the unit that by virtue of
42 taking title the purchaser meets the income requirements of this section on the date of
43 purchase.

11. Burden of proof; prima facie evidence. In a civil action regarding the income restrictions of this section, the burden of proof is on the landlord or purchaser, as applicable, to prove that the tenant or purchaser met the income restrictions set out in subsections 2 and 4 at the time of tenancy or purchase. It is prima facie evidence that a tenant or purchaser meets the income restrictions if a 3rd-party organization, such as a municipal housing authority, bank, credit union or mortgage broker, provides written confirmation of the tenant's or purchaser's income at the time of tenancy or purchase. A challenge to the written confirmation may be successful only if evidence proves beyond a reasonable doubt that the tenant or purchaser did not meet the income requirements of this section. A cause of action is not available against a landlord or purchaser of a workforce housing unit for prior tenants or prior owners of the workforce housing unit.

SUMMARY

This bill requires municipalities to allow for increased housing density or lower minimum lot sizes for housing developments rented or sold to households earning less than 220% of the median income for the area as defined by the United States Department of Housing and Urban Development. The bill requires that the owner of a housing development with a housing density or minimum lot size adjustment under the bill file in the appropriate registry of deeds a declaration of restrictive covenant that requires the units in the development to be rented or sold in accordance with the income limitations in the bill for a period of 30 years.

The bill requires a municipality to determine compliance with requirements applicable to the structure or number of lots or units based on the size of the structure or number of lots or units prior to a dwelling unit increase or an alternative minimum lot size allowance. It provides that a workforce housing development that receives a density increase is in compliance with any state or local requirement that a certain number or percentage of units be affordable housing units as defined by the state or local requirement.