

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1369

H. P. 1151

House of Representatives, March 30, 1977

On motion of Mr. Blodgett of Waldoboro, referred to the Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Provide Safeguards Against the Use of Discriminate and Exclusionary Zoning Practices.

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

Sec. 1. 30 MRSA § 4962, sub-§ 1, ¶ I is enacted to read:

I. Such ordinance or provision may not discriminate a particular style, or type, or use of housing and then exclude its use from zones or areas in the community where land owners may select and use housing for purposes of dwelling, except that the ordinance or provision may designate certain areas for commercial housing use and density requirements.

Sec. 2. 30 MRSA § 4962, sub-§ 2 is enacted to read:

2. Discriminatory zoning ordinance or provision. Residents or land owners who have evidence that a zoning ordinance or provision is discriminatory or prohibitive of certain uses by definition and exclusion when such uses are reasonable and prudent, and has exhausted rights to petition and appeal to municipal authorities for change of such practices, may submit such evidence along with written complaint to the office of the Attorney General who shall investigate such complaint. On finding that such complaint is warranted, the Attorney General's office shall then request that the ordinance or provision be changed to eliminate such discrimination by an advisory opinion to the municipality and may petition the Maine court for declaratory judgment when required to eliminate inequitable or discriminatory use.

STATEMENT OF FACT

Only a very few communities in Maine are abusing the use of zoning powers granted to them by the Legislature to identify and then discriminate

against, prohibit, or establish such conditions that can not be complied with especially regarding the land use for housing which low and moderate income persons are able to afford. Use of mobile homes, mobile home parks, low income and elderly housing are often restricted or prohibited altogether and the people who require this type of housing are the ones who are least able to take their case to court and have such exclusionary practices eliminated. Furthermore, as more communities adopt zoning ordinances, often copying from adjoining communities, the number of incidents increase, resulting in more complaints about the usefulness of zoning and also placing extra, unnecessary burdens on the courts. This bill establishes clearly that such practices are against the policy of this State and provides for the Attorney General's office to intervene if a municipal government persists in such practices.