

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1723

S.P. 580

In Senate, June 2, 1987

Reported by Senator Tuttle of York for the Committee on State and Local Government and printed under Joint Rule 2. Original Bill sponsored by President Pray of Penobscot. Cosponsored by: Representative Clark of Brunswick, Senator Gauvreau of Androscoggin, Representative Carroll of Gray.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend the Laws Relating to
Community Living Arrangements.

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

6 Sec. 1. 30 MRSA §4962-A, sub-§1, as enacted by
7 PL 1981, c. 640, is repealed and the following en-
8 acted in its place:

9 1. Legislative intent. It is the intent of the
10 Legislature that persons seeking to establish a com-
11 munity living facility in a single-family residential
12 zone shall not be prohibited on the basis of the dis-
13 ability served. It is also the intent of the Legis-
14 lature that community living facilities for mentally
15 handicapped and developmentally disabled persons

1 shall not be prohibited from single-family residen-
2 tial zones in a municipality. Municipal ordinances
3 or actions which have the effect of preventing or
4 prohibiting these community living facilities from
5 single-family residential zones, particularly by es-
6 tablishing criteria for single-family residential
7 zones in excess of the criteria in subsections 3 and
8 4, are a violation of legislative intent.

9 Sec. 2. 30 MRSA §4962-A, sub-§1-A is enacted to
10 read:

11 1-A. Definitions. As used in this chapter, un-
12 less the context indicates otherwise, the following
13 terms have the following meanings.

14 A. "Board of appeals" means the board of appeals
15 or any other board established by a municipality
16 with the authority to hear appeals related to en-
17 forcement of the zoning ordinances.

18 B. "Community living facility" means a housing
19 facility for 8 or fewer mentally handicapped or
20 developmentally disabled persons which is ap-
21 proved, authorized, certified or licensed by the
22 State. A community living facility may include a
23 group home, foster home or intermediate care fa-
24 ility.

25 C. "Single-family residential zone" means a res-
26 idential zone designated by a municipality for
27 single-family housing, except as provided in this
28 section. If there are no residential zones des-
29 ignated or considered by a municipality as
30 single-family residential zones, all residential
31 zones in the municipality in which community liv-
32 ing facilities are not a permitted use shall be
33 deemed single-family residential zones.

34 Sec. 3. 30 MRSA §4962-A, sub-§2, as enacted by
35 PL 1981, c. 640, is repealed and the following en-
36 acted in its place:

37 2. Permitted or conditional community living
38 use; definition. In order to implement the policy of
39 this State that mentally handicapped or developmen-
40 tally disabled persons shall not be excluded by mu-

1 municipal zoning ordinances from the benefits of normal
2 residential surroundings, a community living facility
3 shall be considered a permitted or conditional
4 single-family residential use of property for the
5 purposes of zoning.

6 Sec. 4. 30 MRSA §4962-A, sub-§3, as enacted by
7 PL 1981, c. 640, is amended to read:

8 3. Hearing. A municipality shall, within ~~30~~ 60
9 days of action by the office charged with the en-
10 forcement of the zoning ordinance on an application
11 to establish a community living use within a
12 single-family residential zone, hold a public hear-
13 ing, unless a community living use is a permitted use
14 within the single-family residential zone. The fail-
15 ure to hold the public hearing required by this sub-
16 section within the ~~30~~ 60 days, unless that time peri-
17 od is extended by mutual agreement of the parties,
18 shall constitute approval of the application.

19 A. The public hearing shall be conducted by the
20 body authorized by the municipality to act as a
21 zoning board of appeals, and interested parties
22 shall be notified. The notice period and proce-
23 dure for zoning appeals, as established by the
24 municipality, shall meet the notice requirements
25 of this section.

26 B. The board of appeals shall receive public
27 comment on the proposed community living use
28 facility. The board may modify or disapprove the
29 application only upon a finding of one or more of
30 the following:

31 (1) That the proposed use would create or
32 aggravate a traffic hazard;

33 (2) That the proposed use would hamper pe-
34 destrian circulation;

35 (3) That the proposed use would not permit
36 convenient access to commercial shopping fa-
37 cilities, medical facilities, public trans-
38 portation, fire protection or police protec-
39 tion;

1 (4) That the proposed use would not be in
2 conformance with applicable building, hous-
3 ing, plumbing and other safety codes, in-
4 cluding municipal minimum lot size and
5 building set-back requirements for new con-
6 struction; or

7 (5) That the proposed use would not be in
8 conformance with the density requirements of
9 subsection 4.

10 Sec. 5. 30 MRSA §4962-A, sub-§7 is enacted to
11 read:

12 7. Repeal of designation. If a municipality re-
13 peals the designation of single-family residential
14 zones, community living facilities located in the
15 other residential zones prior to the effective date
16 of this subsection shall not be required to meet the
17 criteria of subsections 3 and 4.

18 STATEMENT OF FACT

19 The purpose of this new draft is to clarify the
20 intent of the original bill and to resolve problems
21 that have arisen following passage of Public Law
22 1981, chapter 640. This new draft:

23 1. Provides that it is the intent of the Legis-
24 lature that housing facilities for mentally handi-
25 capped and developmentally disabled persons shall not
26 be prohibited by municipalities in residential zones;

27 2. Provides that in municipalities which do not
28 have residential zones designated as single-family
29 residential zones, all zones will be considered
30 single-family zones for the purposes of housing for
31 mentally handicapped and developmentally disabled
32 persons;

33 3. Changes from 30 to 60 days the time in which
34 a municipality may hold a hearing on the application
35 of a person seeking to establish a community living
36 facility for mentally handicapped and developmentally
37 disabled persons;

1 4. Establishes definitions of various terms in
2 the law; and

3 5. Is intended to specifically prohibit municipi-
4 palities from repealing single-family residential
5 zone designations and forcing existing community liv-
6 ing facilities in the residential zones to meet the
7 criteria for community living facilities in
8 single-family residential zones.

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