

MAINE STATE LEGISLATURE

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MAJORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1596, L.D. 2099, Bill, "An Act to Provide for Livable, Affordable Neighborhoods"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §12004-G, sub-§14-D is enacted to read:

<u>14-D.</u>	<u>State</u>	<u>\$75 per</u>	<u>30-A MRSA</u>
<u>Housing</u>	<u>Affordable</u>	<u>meeting</u>	<u>§4360</u>
	<u>Neighborhood</u>	<u>plus</u>	
	<u>Development</u>	<u>expenses for</u>	
	<u>Review</u>	<u>certain</u>	
	<u>Board</u>	<u>members</u>	

Sec. 2. 30-A MRSA §4301, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §83, is repealed and the following enacted in its place:

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended.

Sec. 3. 30-A MRSA §4360 is enacted to read:

§4360. Regulation of affordable neighborhood development

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1. Applicability. This section applies in municipalities that are part of a labor market area, as defined by the Department of Labor, in which the Maine State Housing Authority, using common underwriting criteria, determines that a household at the median income for the labor market area can not afford to purchase a median-priced home. The Maine State Housing Authority shall make this determination at least every 2 years.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Accessory dwelling unit" means a dwelling unit of 600 square feet or less within a single-family dwelling or a building accessory to and on the same lot as the single-family dwelling when the owner of the property occupies either the main dwelling or the accessory dwelling unit.

B. "Affordable neighborhood development" means a primarily residential development on at least 3 contiguous acres:

(1) In which at least 30% of the dwelling units are priced at the time of initial sale or rent below the price determined by the Maine State Housing Authority as the maximum that is affordable by households whose incomes are less than 120% of the median income for the labor market area, which price must be established annually by the Maine State Housing Authority. Of these 30% of units, at least 1/3 must be priced at the time of initial sale or rent below the price determined by the Maine State Housing Authority as the maximum that is affordable by households whose incomes do not exceed 80% of the median income for the labor market area, which price must be established annually by the Maine State Housing Authority;

(2) That is served by, or will be served by, an extension of a public sewer or will be served by an engineered community wastewater disposal system licensed by the State and owned and operated by a municipality or a sewer district;

(3) That is served or will be served by a publicly owned and operated water system licensed by the State; and

2 (4) That is designed to be walkable; includes internal
3 open space and other common open space; includes one or
4 more civic or other small-scale nonresidential uses of
5 service to the residents of the development, either
6 built within the development or available within 1/2
7 mile of the development; and meets design guidelines
8 established pursuant to subsection 5.

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10 C. "Common open space" means a parcel or parcels of land,
11 an area of water or a combination of land and water,
12 including floodplains and wetlands, within or traversing a
13 development and designed and intended for the use and
14 enjoyment of residents of the development. "Common open
15 space" does not include land or yards allocated to specific
16 dwelling units or other structures or in public
17 rights-of-way.

18 D. "Complete plan" means documentation of rights, title or
19 interest in the property to be developed; a processing fee
20 as may be established by the board; and a plan signed and
21 sealed by the professional land surveyor under whose
22 responsible charge a land survey was completed and signed
23 and sealed by a professional engineer registered in the
24 State or by a landscape architect licensed in the State
25 under whose responsible charge all elements of the plan, as
26 required by the design guidelines established in subsection
27 5, have been addressed.

28 E. "Internal open space" means a component of common open
29 space consisting of one or more parcels with a minimum area
30 of 500 square feet, of a distinct geometric shape and
31 bounded by streets or other rights-of-way.

32 F. "Precertified development" means a development that,
33 prior to final approvals by a local board, has been reviewed
34 by the board established in subsection 3 and certified as an
35 affordable neighborhood development.

36
37 3. State Affordable Neighborhood Development Review Board.
38 The State Affordable Neighborhood Development Review Board,
39 referred to in this section as the "board," is established within
40 the Maine State Housing Authority.

41 A. The board consists of 8 members:

42 (1) The Director of the Maine State Housing Authority
43 or the director's designee, who is the chair;

44 (2) The Director of the State Planning Office or the
45 director's designee;

- 2 (3) The Commissioner of Environmental Protection or
3 the commissioner's designee;
- 4 (4) A landscape architect licensed in the State,
5 appointed by the Governor;
- 6 (5) A town or city planner employed by a municipality
7 in the State, appointed by the Governor;
- 8 (6) An elected municipal official, appointed by the
9 Governor;
- 10 (7) A representative of the development industry with
11 expertise in developing affordable housing, appointed
12 by the Governor; and
- 13 (8) A resident of housing that is subsidized or
14 assisted by the programs of the United States
15 Department of Housing and Urban Development or of the
16 Maine State Housing Authority and whose household
17 income does not exceed 80% of the median income for the
18 area in which the person lives, appointed by the
19 Governor from a list of recommendations from a
20 statewide coalition that promotes affordable housing.

21 The Director of the Maine State Housing Authority or the
22 director's designee may not vote on applications that are
23 seeking financing from the authority.

24 B. Appointed members of the board serve 3-year terms or
25 until a successor is named, whichever is later, as long as
26 they continue to hold a position that qualifies them for
27 appointment, except that the initial term for the town or
28 city planner member is for one year; the initial term for
29 the landscape architect is for 2 years; the initial term for
30 the elected municipal official is for 2 years; the initial
31 term for the representative of the development industry is
32 for 3 years; and the initial term for the resident of
33 housing that is subsidized or assisted is for 3 years. A
34 quorum is 5 members.

35 C. Members of the board who are employed by State
36 Government serve without pay. Other members of the board
37 are entitled to receive \$75 per day for their attendance at
38 meetings and to reimbursement for reasonable expenses,
39 including travel, to be paid by the Maine State Housing
40 Authority.

2 D. Within 90 days of receiving a written request for a
3 precertified development along with a complete plan, the
4 board, by a vote of a majority of the members present and
5 voting, shall issue a written finding:

6 (1) Certifying that the plan meets the criteria and
7 design guidelines established in this section for an
8 affordable neighborhood development; or

10 (2) Denying certification that the plan meets the
11 criteria and design guidelines for an affordable
12 neighborhood development and giving the reasons for the
13 denial. An applicant whose request for certification
14 is denied may resubmit a new complete plan at a later
15 date.

16 4. Regulation of affordable neighborhood development. An
17 affordable neighborhood development is regulated as follows.

20 A. Except as required under Title 38 or an ordinance
21 required to be adopted pursuant to Title 38, a municipality
22 may not require a single-family house lot within a
23 precertified development be larger than 6,500 square feet or
24 have frontage of more than 50 feet on any road, except that
25 it may require that the average frontage of all lots in that
26 development be at least 70 feet, and may not require
27 dimensional standards for lots, buildings or roads in excess
28 of the design guidelines established pursuant to subsection
29 5. Where the development will use a licensed, engineered
30 community wastewater disposal system, a municipality may not
31 require more land area per dwelling unit or bedroom than is
32 required for licensing of a disposal system by the State.

34 B. Except as required under Title 38 or an ordinance
35 required to be adopted pursuant to Title 38, a municipality
36 may not require that a multifamily lot within a precertified
37 development have fewer than 6 dwelling units per gross acre
38 and may not require dimensional standards for lots,
39 buildings or roads in excess of the design guidelines
40 established pursuant to subsection 5. Where the development
41 will use a licensed, engineered community wastewater
42 disposal system, a municipality may not require more land
43 area per dwelling unit or bedroom than is required for
44 licensing of the disposal system by the State.

46 C. A precertified development may be located in any area of
47 a municipality where other residential development is
48 allowed provided that where a municipality has adopted a
49 comprehensive plan consistent with state law, the
50 development must be located at least partially within a

2 growth area as designated in the comprehensive plan. If a
3 municipal zoning district enacted pursuant to a consistent
4 comprehensive plan permits only single-family dwellings, the
5 precertified development must be restricted to single-family
6 dwellings, accessory dwelling units and small-scale
7 nonresidential structures and uses that will directly serve
8 residents of the neighborhood.

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10 D. A precertified development is subject to the same
11 municipal subdivision and site plan reviews as other
12 residential developments in the municipality, except that
13 such reviews may not require dimensional standards for lots,
14 buildings or roads in excess of those required by this
15 subsection or the guidelines established pursuant to
16 subsection 5. Municipal subdivision and site plan reviews
17 of precertified developments must be completed within 180
18 days of the submission of a complete application, as defined
19 by the municipality, for such reviews.

20 E. A precertified development may not be subject to a
21 building cap or rate of growth ordinance.

22
23 F. A municipality may substitute its own definition of
24 "accessory dwelling unit" for the definition in subsection
25 2, paragraph A as long as that definition does not have the
26 effect of prohibiting such a unit in an affordable
27 neighborhood development.

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29 5. Design guidelines; rule. The board shall adopt by rule
30 design guidelines for an affordable neighborhood development.
31 The office, in cooperation with the board, shall prepare draft
32 guidelines for the board's consideration. The guidelines must
33 include submission requirements and related fees and must
34 generally respect the principles of walkable neighborhoods with a
35 variety of lot sizes and types and choice of housing for
36 households of different incomes, respect the natural environment,
37 provide for adequate fire protection and public safety and
38 provide for appropriate internal open space and other common open
39 space and landscaping of streets. In adopting rules, the board
40 must consider options for allowing unfinished 2nd floors and
41 address the ongoing affordability of affordable units. Rules
42 adopted pursuant to this subsection are major substantive rules
43 as defined in Title 5, chapter 375, subchapter II-A.

44
45 **Sec. 4. Submission of rules.** Rules adopted by the State
46 Affordable Neighborhood Development Review Board pursuant to the
47 Maine Revised Statutes, Title 30-A, section 4360, subsection 5
48 must be submitted to the Legislature in accordance with Title 5,
49 chapter 375, subchapter II-A no later than February 1, 2003.'

50

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill establishes the State Affordable Neighborhood Development Review Board within the Maine State Housing Authority and establishes standards for affordable neighborhood developments.

The Maine State Housing Authority will incur some minor additional costs to pay the per diem and other expenses for board members who are not employed by State Government and for the costs associated with the board adopting rules. These costs can be absorbed within the housing authority's existing budgeted resources.

The State Planning Office within the Executive Department and the Department of Environmental Protection will incur some minor additional costs to serve on the State Affordable Neighborhood Development Review Board. These costs can be absorbed within the agencies' existing budgeted resources.'

SUMMARY

This amendment replaces the bill. It establishes the State Affordable Neighborhood Development Review Board within the Maine State Housing Authority and establishes standards for affordable neighborhood development. The regulation of affordable neighborhood developments would apply in municipalities that are part of a labor market area in which a median income household can not afford to purchase a median-priced home.