

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2099

H.P. 1596

House of Representatives, February 5, 2002

An Act to Provide for Livable, Affordable Neighborhoods.

Reported by Representative KOFFMAN for the Joint Study Committee to Study Growth Management pursuant to Joint Order 2001, H.P. 1330.

Reference to the Joint Standing Committee on Business and Economic Development suggested and printing ordered under Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

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

6 **14-D.** State \$75 per 30-A MRSA
 Housing Affordable meeting §4360
 Neighborhood plus
8 Development expenses for
 Review certain
10 Board members

12 **Sec. 2. 30-A MRSA §4301, sub-§1**, as repealed and replaced by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 A, §83, is repealed and the following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

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

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

26 **§4360. Regulation of affordable neighborhood development**

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

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

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

46 **B. "Affordable neighborhood development"** means a primarily
48 residential development on at least 3 contiguous acres in
 which at least 25% of the dwelling units are affordable
50 housing as defined by section 4301 and that is designed to
 be compact and walkable; is served by, or will be served by

2 an extension of, a public sewer; includes internal open
3 space and other common open space; includes one or more
4 small-scale nonresidential uses of service to the residents
5 of the development, either built within the development or
6 available within 1/2 mile of the development; and meets
7 design guidelines established pursuant to subsection 5.

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

16 D. "Complete plan" means a plan signed and sealed by the
17 professional land surveyor under whose responsible charge a
18 land survey was completed and by a landscape architect
19 certified in the State under whose responsible charge all
20 elements of the plan, as required by the design guidelines
21 established in subsection 5, have been addressed.

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

26 F. "Precertified development" means a development that,
27 prior to final approvals by a local board, has been reviewed
28 by the board established in subsection 3 and certified as an
29 affordable neighborhood development.

30 **3. State Affordable Neighborhood Development Review Board.**
31 The State Affordable Neighborhood Development Review Board,
32 referred to in this section as the "board," is established within
33 the Maine State Housing Authority.

34 A. The board consists of 6 members: the Director of the
35 Maine State Housing Authority or the director's designee,
36 who is the chair; the Director of the State Planning Office
37 or the director's designee; the Commissioner of
38 Environmental Protection or the commissioner's designee; a
39 landscape architect certified in the State, appointed by the
40 Governor; a town or city planner employed by a municipality
41 in the State, appointed by the Governor; and an elected
42 municipal official, appointed by the Governor. The Director
43 of the Maine State Housing Authority or the director's
44 designee may not vote on applications that are seeking
45 financing from the authority.

2 B. Appointed members of the board serve 3-year terms or
4 until a successor is named, whichever is later, as long as
6 they continue to hold a position that qualifies them for
8 appointment. A quorum is 4 members.

10 C. Members of the board who are employed by State
12 Government serve without pay. Other members of the board
14 are entitled to receive \$75 per day for their attendance at
16 meetings and to reimbursement for reasonable expenses,
18 including travel, to be paid by the Maine State Housing
20 Authority.

22 D. Within 60 days of receiving a written request for a
24 precertified development along with a complete plan, the
26 board, by a vote of a majority of the members present and
28 voting, shall issue a written finding:

30 (1) Certifying that the plan meets the design
32 guidelines established in this section for an
34 affordable neighborhood development; or

36 (2) Denying certification that the plan meets the
38 design guidelines for an affordable neighborhood
40 development and giving the reasons for the denial. An
42 applicant whose request for certification is denied may
44 resubmit a new complete plan at a later date.

46 4. Regulation of affordable neighborhood development. An
48 affordable neighborhood development is regulated as follows.

50 A. Except as required under Title 38 or an ordinance
52 adopted pursuant to Title 38, a municipality may not require
54 a single-family house lot within a precertified development
56 be larger than 6,500 square feet or have frontage of more
58 than 50 feet on any road, except that it may require that
60 the average frontage of all lots in that development be at
62 least 70 feet, and may not require dimensional standards for
64 lots, buildings or roads in excess of the design guidelines
66 established pursuant to subsection 5.

68 B. Except as required under Title 38 or an ordinance
70 adopted pursuant to Title 38, a municipality may not require
72 that a multifamily lot within a precertified development
74 have fewer than 7 dwelling units per acre and may not
76 require dimensional standards for lots, buildings or roads
78 in excess of the design guidelines established pursuant to
80 subsection 5.

82 C. A precertified development may be located in any area of

2 a municipality where other residential development is
4 allowed as long as public sewer is available to the
6 precertified development either through an existing line or
8 one that could be extended to that development. If a
10 municipal zoning district enacted pursuant to a consistent
comprehensive plan permits only single-family dwellings, the
precertified development must be restricted to single-family
dwellings, accessory dwelling units and small-scale
nonresidential structures and uses found by the board to be
integral to the development.

12 D. A precertified affordable neighborhood development is
14 subject to the same municipal subdivision and site plan
16 reviews as other residential developments in the
18 municipality, except that such reviews may not require
20 dimensional standards for lots, buildings or roads in excess
of the design guidelines established pursuant to subsection
5. Municipal subdivision and site plan reviews of
precertified developments must be completed within 180 days
of the submission of a complete application for such reviews.

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

28 **5. Design guidelines; rule.** The board shall adopt by rule
30 design guidelines for an affordable neighborhood development.
32 The office, in cooperation with the board, shall prepare draft
34 guidelines for the board's consideration. The guidelines must
36 include submission requirements and related fees and must
generally respect the principles of walkable neighborhoods with a
variety of lot sizes and types and choice of housing for
households of different incomes that are built to human scale,
respect the natural environment, provide for adequate fire
protection and public safety and provide for appropriate internal
open space and other common open space. Rules adopted pursuant
to this subsection are major substantive rules as defined in
Title 5, chapter 375, subchapter II-A.

42 **Sec. 4. Submission of rules.** Rules adopted by the State
44 Affordable Neighborhood Development Review Board pursuant to the
46 Maine Revised Statutes, Title 30-A, section 4360, subsection 3
must be submitted to the Legislature in accordance with Title 5,
chapter 375, subchapter II-A no later than December 1, 2002.

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SUMMARY

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This bill implements a recommendation of the Joint Study Committee to Study Growth Management. It establishes the State Affordable Neighborhood Development Review Board within the Maine State Housing Authority and establishes standards for affordable neighborhood developments. It also amends the definition of affordable housing in the growth management laws.

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