

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 853

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H.P. 630

House of Representatives, February 20, 2003

### An Act To Promote Livable, Affordable Neighborhoods

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SUSLOVIC of Portland.  
Cosponsored by Senator BROMLEY of Cumberland and  
Representatives: BERUBE of Lisbon, COWGER of Hallowell, KOFFMAN of Bar Harbor,  
LAVERRIERE-BOUCHER of Biddeford, LERMAN of Augusta, PIOTTI of Unity, Senators:  
GILMAN of Cumberland, SAWYER of Penobscot.

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

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

6	<u>14-D.</u>	<u>State</u>	<u>\$75 per</u>	<u>30-A</u>
	<u>Housing</u>	<u>Affordable</u>	<u>meeting</u>	<u>MRSA §4361</u>
8		<u>Neighborhood</u>	<u>plus</u>	
		<u>Development</u>	<u>expenses</u>	
10		<u>Review</u>	<u>for certain</u>	
		<u>Board</u>	<u>members</u>	

12 **Sec. 2. 30-A MRSA §4361** is enacted to read:

14 **§4361. Regulation of affordable neighborhood development**

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

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

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

36 B. "Affordable neighborhood development" means a primarily  
residential development on at least 3 contiguous acres in  
38 which at least 25% of the dwelling units are affordable  
housing as defined by section 4301 and that is designed to  
40 be compact and walkable; is served by, or will be served by  
an extension of, a public sewer; includes internal open  
42 space and other common open space; includes one or more  
small-scale nonresidential uses of service to the residents  
44 of the development, either built within the development or  
available within 1/2 mile of the development; and meets  
46 design guidelines established pursuant to subsection 5.

48 C. "Common open space" means a parcel or parcels of land,  
an area of water or a combination of land and water,  
50 including floodplains and wetlands, within or traversing an  
affordable neighborhood development and designed and

2 intended for the use and enjoyment of residents of the  
3 affordable neighborhood development. "Common open space"  
4 does not include land or yards allocated to specific  
5 dwelling units or other structures or in public  
6 rights-of-way.

7 D. "Complete plan" means a plan signed and sealed by the  
8 professional land surveyor under whose responsible charge a  
9 land survey was completed and by a landscape architect  
10 certified in the State under whose responsible charge all  
11 elements of the plan, as required by the design guidelines  
12 established pursuant to subsection 5, have been addressed.

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

17 F. "Precertified development" means a development that,  
18 prior to final approvals by a local board, has been reviewed  
19 by the board established in subsection 3 and certified as an  
20 affordable neighborhood development.

21 **3. State Affordable Neighborhood Development Review Board.**

22 The State Affordable Neighborhood Development Review Board,  
23 referred to in this section as "the board," is established within  
24 the Maine State Housing Authority.

25 A. The board consists of 6 members: the Director of the  
26 Maine State Housing Authority or the director's designee,  
27 who is the chair; the Director of the State Planning Office  
28 or the director's designee; the Commissioner of  
29 Environmental Protection or the commissioner's designee; a  
30 landscape architect certified in the State, appointed by the  
31 Governor; a town or city planner employed by a municipality  
32 in the State, appointed by the Governor; and an elected  
33 municipal official, appointed by the Governor. The Director  
34 of the Maine State Housing Authority or the director's  
35 designee may not vote on applications that are seeking  
36 financing from the authority. A quorum is 4 members.

37 B. Appointed members of the board serve 3-year terms or  
38 until a successor is named, whichever is later, as long as  
39 they continue to hold a position that qualifies them for  
40 appointment.

41 C. Members of the board who are employed by State  
42 Government serve without pay. Other members of the board  
43 are entitled to receive \$75 per day for their attendance at  
44 meetings and to reimbursement for reasonable expenses,  
45

2 including travel, to be paid by the Maine State Housing  
3 Authority.

4 D. Within 60 days of receiving a written request for a  
5 precertified development along with a complete plan, the  
6 board, by a vote of a majority of the members present and  
7 voting, shall issue a written finding:

8 (1) Certifying that the complete plan meets the design  
9 guidelines established pursuant to subsection 5 for an  
10 affordable neighborhood development; or

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

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

18 A. Except as required under Title 38 or an ordinance  
19 adopted pursuant to Title 38, a municipality may not require  
20 that a single-family house lot within a precertified  
21 development be larger than 5,000 square feet or have  
22 frontage of more than 50 feet on any road, except that the  
23 municipality may require that the average frontage of all  
24 lots in that development be at least 70 feet and may not  
25 require dimensional standards for lots, buildings or roads  
26 in excess of the design guidelines established pursuant to  
27 subsection 5.

28 B. Except as required under Title 38 or an ordinance  
29 adopted pursuant to Title 38, a municipality may not require  
30 that a multifamily lot within a precertified development  
31 have fewer than 7 dwelling units per acre and may not  
32 require dimensional standards for lots, buildings or roads  
33 in excess of the design guidelines established pursuant to  
34 subsection 5.

35 C. A precertified development may be located in any area of  
36 a municipality where other residential development is  
37 allowed as long as public sewer service is available to the  
38 precertified development either through an existing line or  
39 through a line that could be extended to that development.  
40 If a municipal zoning district authorized pursuant to a  
41 consistent comprehensive plan permits only single-family  
42 dwellings, the precertified development must be restricted  
43 to single-family dwellings, accessory dwelling units and  
44 to single-family dwellings, accessory dwelling units and

2 small-scale nonresidential structures and uses found by the  
3 board to be integral to the development.

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

13 E. A municipality may substitute its own definition of  
14 "accessory dwelling unit" for the definition in subsection  
15 2, paragraph A as long as that definition does not have the  
16 effect of prohibiting such a unit in an affordable  
17 neighborhood development.

18 **5. Design guidelines; rules.** The board shall adopt by rule  
19 design guidelines for an affordable neighborhood development. The  
20 office, in cooperation with the board, shall prepare draft  
21 guidelines for the board's consideration. The guidelines must  
22 include submission requirements and related fees and must  
23 generally respect the principles of walkable neighborhoods with a  
24 variety of lot sizes and types and choice of housing for  
25 households of different incomes that respect the natural  
26 environment, provide for adequate fire protection and public  
27 safety and provide for appropriate internal open space and other  
28 common open space. Rules adopted pursuant to this subsection are  
29 major substantive rules as defined in Title 5, chapter 375,  
30 subchapter 2-A.

31 **Sec. 3. Submission of rules.** Rules adopted by the State  
32 Affordable Neighborhood Development Review Board pursuant to the  
33 Maine Revised Statutes, Title 30-A, section 4361, subsection 5  
34 must be submitted to the Legislature in accordance with the Maine  
35 Revised Statutes, Title 5, chapter 375, subchapter 2-A no later  
36 than December 1, 2004.

## 41 SUMMARY

42  
43 This bill establishes the State Affordable Neighborhood  
44 Development Review Board within the Maine State Housing Authority  
45 and establishes standards for affordable neighborhood  
46 developments.

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