

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1084

H.P. 802

House of Representatives, March 4, 2003

An Act To Provide Incentives for Affordable Neighborhood Developments

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Senator BROMLEY of Cumberland and
Representatives: COWGER of Hallowell, FAIRCLOTH of Bangor, LEMOINE of Old Orchard
Beach, McLAUGHLIN of Cape Elizabeth, NORBERT of Portland, SULLIVAN of Biddeford,
SUSLOVIC of Portland.

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

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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 plus</u>	<u>§4361</u>
	<u>Neighborhood</u>	<u>expenses for</u>	
	<u>Development</u>	<u>certain</u>	
	<u>Review Board</u>	<u>members</u>	

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

§4361. Regulation of affordable neighborhood development

1. 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 in which at least 25% of the dwelling units are affordable housing as defined by section 4301 and that is designed to be compact and walkable; is served by, or will be served by an extension of, a public sewer; includes internal open space and other common open space; includes one or more small-scale nonresidential uses of service to the residents of the development, either built within the development or available within 1/2 mile of the development; and meets design guidelines established pursuant to subsection 6.

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

D. "Complete plan" means a plan signed and sealed by the professional land surveyor under whose responsible charge a land survey was completed and by a landscape architect certified in the State under whose responsible charge all

2 elements of the plan, as required by the design guidelines
3 established in subsection 6, have been addressed.

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

8
9 F. "Precertified development" means a development that,
10 prior to final approvals by a local board, has been reviewed
11 by the board established in subsection 4 and certified as an
12 affordable neighborhood development.

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14 **2. Applicability.** This section applies to a project if a
15 municipality and a developer agree that the project will be
16 regulated as an affordable neighborhood development under this
17 section.

18
19 **3. Eligibility for funding.** A municipality in which an
20 affordable neighborhood development is constructed pursuant to
21 this section is eligible for funding from the Affordable
22 Neighborhood Development Fund, created in section 4757, for
23 school construction and renovation costs, transportation costs,
24 sewer and water costs and open space costs. The board can not
25 release funds pursuant to this subsection until a certificate of
26 occupancy is issued.

27
28 **4. State Affordable Neighborhood Development Review Board.**
29 The State Affordable Neighborhood Development Review Board,
30 referred to in this section as "the board," is established within
31 the Maine State Housing Authority.

32 A. The board consists of the following 6 members:

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

36
37 (2) The Director of the State Planning Office or the
38 director's designee;

39
40 (3) The Commissioner of Environmental Protection or
41 the commissioner's designee;

42
43 (4) A landscape architect certified in the State,
44 appointed by the Governor;

45
46 (5) A town or city planner employed by a municipality
47 in the State, appointed by the Governor; and
48

2 (6) An elected municipal official, appointed by the
3 Governor.

4 The Director of the Maine State Housing Authority or the
5 director's designee may not vote on an application for
6 certification as an affordable neighborhood development if
7 the applicant is seeking financing from the authority.

8
9 B. Appointed members of the board serve 3-year terms or
10 until a successor is named, whichever is later, as long as
11 they continue to hold positions that qualify them for
12 appointment. A quorum is 4 members.

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

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

23 (1) Certifying that the plan meets the design
24 guidelines established in this section for an
25 affordable neighborhood development; or

26 (2) Denying certification that the plan meets the
27 design guidelines for an affordable neighborhood
28 development and giving the reasons for the denial. An
29 applicant whose request for certification is denied may
30 resubmit a new complete plan at a later date.

31 5. Regulation of affordable neighborhood development. A
32 municipality in which an affordable neighborhood development is
33 proposed:

34 A. Except as required under Title 38 or an ordinance
35 adopted pursuant to Title 38, may not require a
36 single-family house lot within a precertified development be
37 larger than 6,500 square feet or have frontage of more than
38 50 feet on any road, except that it may require that the
39 average frontage of all lots in that development be at least
40 70 feet, and may not require dimensional standards for lots,
41 buildings or roads in excess of the design guidelines
42 established pursuant to subsection 6;

2 B. Except as required under Title 38 or an ordinance
4 adopted pursuant to Title 38, may not require that a
6 multifamily lot within a precertified development have fewer
8 than 7 dwelling units per acre and may not require
10 dimensional standards for lots, buildings or roads in excess
12 of the design guidelines established pursuant to subsection
14 6;

16 C. May allow a precertified development to be located in
18 any area where other residential development is allowed as
20 long as public sewer is available to the precertified
22 development either through an existing line or one that
24 could be extended to that development. If a municipal zoning
26 district enacted pursuant to a consistent comprehensive plan
28 permits only single-family dwellings, the precertified
30 development must be restricted to single-family dwellings,
32 accessory dwelling units and small-scale nonresidential
34 structures and uses found by the board to be integral to the
36 development;

38 D. Shall apply to a precertified development the same
40 municipal subdivision and site plan reviews that other
42 residential developments in the municipality are subject to,
44 except that such reviews may not require dimensional
46 standards for lots, buildings or roads in excess of the
48 design guidelines established pursuant to subsection 6.
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;

E. May substitute its own definition of "accessory dwelling
unit" for the definition in subsection 3, paragraph A as
long as that definition does not have the effect of
prohibiting such a unit in an affordable neighborhood
development; and

F. May not impose an impact fee on an affordable
neighborhood development.

40 6. Design guidelines; rule. The board shall adopt by rule
42 design guidelines for an affordable neighborhood development. The
44 State Planning Office, in cooperation with the board, shall
46 prepare draft guidelines for the board's consideration. The
48 guidelines must include submission requirements and related fees
and must generally respect the principles of walkable
neighborhoods with a variety of lot sizes and types of housing
for households of different incomes that respect the natural
environment, provide for adequate fire protection and public
safety and provide for appropriate internal open space and other

2 common open space. Rules adopted pursuant to this subsection are
3 major substantive rules as defined in Title 5, chapter 375,
4 subchapter 2-A.

6 7. Funding rules. The board shall adopt rules, in
7 cooperation with the Maine State Housing Authority, necessary to
8 implement the Affordable Neighborhood Development Fund,
9 established in section 4757. The rules must require the board to
10 first look to the Land for Maine's Future Fund, established in
11 Title 5, section 6203, and other state funding sources that fund
12 open space preservation for funding costs associated with open
13 space and to the Department of Transportation for funding costs
14 associated with transportation before allocating funds from the
15 Affordable Neighborhood Development Fund for such purposes. The
16 rules must provide preferences for projects that are proposed in
17 communities where there is a demonstrated need for affordable
18 housing. Rules adopted pursuant to this subsection are routine
19 technical rules as defined in Title 5, chapter 375, subchapter
20 2-A.

22 8. Reports. The Maine State Housing Authority shall report
23 to the joint standing committee of the Legislature having
24 jurisdiction over housing matters in January 2005 and January
25 2007 on the status of the affordable neighborhood development
26 program and the Affordable Neighborhood Development Fund.

28 9. Repeal. This section is repealed April 30, 2008.

30 Sec. 3. 30-A MRSA §4757 is enacted to read:

32 **§4757. Affordable Neighborhood Development Fund**

34 1. Establishment. The Affordable Neighborhood Development
35 Fund is established under the jurisdiction of the Maine State
36 Housing Authority. For the purposes of this subchapter, "fund"
37 means the Affordable Neighborhood Development Fund.

38 2. Sources of fund. The following must be paid into the
39 fund:

40 A. All money appropriated for inclusion in the fund;

42 B. From the real estate transfer tax imposed by Title 36,
43 section 4641-A, \$100,000 per month;

44 C. Subject to any pledge, contract or other obligation, all
45 interest, dividends or other income from investment of the
46 fund; and

47 D. Any other money, including federal money, deposited in
48 the fund to implement the provisions of this section.

