



130th Legislature, Second Regular Session

**Commission to Increase Housing
Opportunities in Maine by Studying
Land Use Regulations and Short-term Rentals**

November 2022

Office of Policy and Legal Analysis



**STATE OF MAINE
130th LEGISLATURE
SECOND REGULAR SESSION**

**COMMISSION TO INCREASE HOUSING
OPPORTUNITIES IN MAINE BY STUDYING
LAND USE REGULATIONS AND SHORT-TERM RENTALS**

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Executive Summary

The 130th Maine Legislature established the Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals (referred to in this report as the “commission”) with the passage of Resolve 2021, chapter 184 (Appendix A). Pursuant to the resolve, 17 members were appointed to the commission: two members of the Senate appointed by the President of the Senate, including a member from each of the two parties holding the largest number of seats in the Legislature; two members of the House of Representatives appointed by the Speaker of the House, including a member from each of the two parties holding the largest number of seats in the Legislature; the Director of the Maine State Housing Authority or the director's designee; one member representing the Office of the Governor, appointed by the Governor; five public members, one representing a statewide municipal association, one representing a statewide organization that advocates for affordable housing, one representing statewide agricultural interests, one with expertise in transportation matters and one who is in the building trades, appointed by the President of the Senate; and six public members, one representing a regional planning association or a statewide organization that advocates for smart growth policies and projects, one representing the real estate industry, one who is a residential developer, one representing an organization that advocates for low-income or middle-income renters or homeowners, one representing a local or statewide organization promoting civil rights that has racial justice or racial equity as its primary mission and one representing a nonprofit organization with expertise in strategies for building affordable homes for ownership, appointed by the Speaker of the House.

A list of commission members can be found in Appendix B.

The duties of the commission, which are set forth in Resolve 2021, chapter 184, are as follows:

1. Review data on housing shortages in the State for low-income and middle-income households and data on the conversion of housing units to short-term rentals in the State;
2. Review State laws that affect the local regulation of land use and short-term rentals and consider whether they fulfill the goals set forth in the Maine Revised Statutes, Title 30-A, section 4312, subsection 3, including but not limited to the promotion of affordable housing; promotion of an economic climate that increases job opportunities and overall economic well-being; and protection of the State’s water resources and other critical natural resources;
3. Review efforts in other states and municipalities to address housing shortages through changes to land use restrictions and regulation of short-term rentals;
4. Consider strategies for affordable home ownership through changes to land use restrictions; and
5. Consider measures that would encourage municipalities to increase available housing, including but not limited to municipal incentives and statewide regulation of short-term rentals.

Over the course of six meetings, the commission developed the following recommendations:

Recommendation #1. Establish a statewide searchable database of residential short-term rentals (STRs).

Recommendation #2. Amend Title 30-A, section 4364-C, subsection 2 to reaffirm municipal authority to adopt ordinances regulating STRs.

Recommendation #3. Redirect a portion of the revenue from the sales tax on STRs to municipalities where STRs are located.

Recommendation #4. Create a use category in State law for a property wholly used as an STR into a separate category for property tax assessment purposes.

Recommendation #5. Support certain policy action proposals put forth in GrowSmart Maine and Build Maine's Policy Action 2023 plan.

Recommendation #6: Increase baseline funding for regional planning agencies.

Recommendation #7. Create a State emergency rental assistance program that mitigates the end of the federally funded Emergency Rental Assistance Program; increase the General Assistance (GA) maximums for housing to match the actual cost of housing; provide greater assistance and resources to municipalities with respect to the processing of GA applications; and, due to this housing crisis, encourage the Governor to consider declaring a state of emergency to increase reimbursement to municipalities immediately.

Recommendation #8. Prohibit discrimination against housing choice voucher recipients.

Recommendation #9. Examine the feasibility of providing tenants with the right of first refusal to purchase a property when a tenant's landlord sells the building or mobile home park in which the tenant resides.

Recommendation #10. Examine establishing a cap on application fees for prospective tenants who are applying for housing.

Recommendation #11. Examine State law governing no-cause evictions.

Recommendation #12. Prohibit a landlord from requiring that a tenant's motor vehicle be registered as a condition of the lease or tenancy at-will agreement for a dwelling unit.

Recommendation #13. Consider redirecting more of the real estate transfer tax toward addressing housing needs, including affordable housing production and rental assistance.

Recommendation #14. Examine whether a portion of publicly-owned real estate ought to be set aside for affordable housing development.

Recommendation #15. Create a comprehensive permitting process to enable housing proposals containing a certain proportion of affordable housing units to be considered by municipalities in

a manner that consolidates review and local permitting within one local agency and enables review to be processed in an expedited manner.

Recommendation #16. Recommend that the Legislature allocate an investment of State resources totaling at least \$60 million to fund the construction of affordable housing and the expansion of construction workforce development programming and the marketing of those programs.

Recommendation #17. Require public notice at least two years prior to the expiration of federally-financed, State-financed or State-incentivized affordable housing mortgages so that housing advocates, housing organizations and tenants can start the process of preserving these properties.

Recommendation #18. Create a permanent commission on housing and establish a separate stand-alone joint standing committee of the Legislature on housing matters.

I. Introduction

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5. Consider measures that would encourage municipalities to increase available housing, including but not limited to municipal incentives and statewide regulation of short-term rentals.

The commission is also directed to submit a report with findings and recommendations for presentation to the First Regular Session of the 131st Legislature. The report due date is

November 2022. In accordance with chapter 184, the commission received outside funding to conduct its work. The funding was provided by the Maine Affordable Housing Coalition.

II. Commission Process

The commission held six meetings on the following dates: September 13, September 23, October 3, October 17, October 24 and October 31. All meetings were held in a hybrid (remote and in-person) format and were open to the public. Each meeting included a public comment period. Each meeting was also livestreamed via the Legislature’s audio and video streaming service.

A. First Meeting: September 13, 2022

The first meeting of the commission was held on September 13, 2022. The meeting began with commission member introductions and each member identified what that member would like to see accomplished through the commission’s work. Legislative staff provided an overview of the enabling legislation (Resolve 2021, chapter 184 in Appendix A) covering the duties, process and timeline for the commission’s work. Legislative staff also reviewed recent changes to housing laws that were enacted in the 130th Legislature, including LD 2003, which was enacted based upon recommendations from the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land-use Restrictions 2021).

Commission staff then reviewed current (or pending) local ordinances or referendums that may affect housing development, including those in the communities of Bar Harbor, Portland, South Portland, Freeport, Kennebunkport, Falmouth and Cape Elizabeth¹ (Appendix C).

The commission heard a presentation on Maine’s growth management program from Judith East, Bureau Director of the Bureau of Resource Information and Land Use Planning at the Department of Agriculture, Conservation and Forestry (DACF) (Appendix D). Director East discussed the origins of the growth management program, first enacted in 1989, and went through various legislative changes made to the growth management program up to the present. She also discussed the “push-pull” between land use and economic regulation, including Maine’s home rule and State oversight.

The commission then focused on the state of housing in Maine generally, and heard from two presenters on housing data in Maine. Dan Brennan, Director of the Maine State Housing Authority (MaineHousing), who served on the commission only for the first meeting, presented on demographics of home owners and renters and the housing market (Appendix E). Director Brennan noted that MaineHousing recently signed an agreement with AirDNA, a leading organization on short-term rental data, to acquire information on how short-term rentals are affecting Maine’s housing market.

The commission next received a presentation from Laura Mitchell, executive director of the Maine Affordable Housing Coalition² (Appendix F). Ms. Mitchell presented on the mismatch between housing supply and housing demand in Maine and the U.S. She also provided an

¹ <https://legislature.maine.gov/doc/8864>

² <https://legislature.maine.gov/doc/8867>

overview of how certain cities, such as New York, San Francisco and Chicago, are regulating short-term rentals and how those policies vary from jurisdiction to jurisdiction.

The commission then took public comment; Deb Hart, President of Hart Public Policy, Inc., provided comment.

B. Second Meeting: September 23, 2022

The second meeting of the commission was held on September 23, 2022. The commission heard a presentation from Chris Donnelly, director of community relation at Champlain Housing Trust in the State of Vermont.

Mr. Donnelly said that Champlain Housing Trust was founded in 1984 with the goal of preventing displacement and gentrification of a neighborhood and that it piloted a new form of homeownership in the form of shared equity³ (Appendix G). Shared equity, sometimes known as shared appreciation, establishes a contractual relationship between a buyer and a community land trust or other nonprofit. In exchange for reducing the size of the mortgage that buyers need to borrow, buyers agree to share a portion of any increased market value when the buyers decide to sell. Mr. Donnelly noted that as part of the owners' responsibilities, they are not permitted to rent out their homes as rental property or to use it as a short-term rental (STR).

Commission members next received a presentation from Maggie Fleming, administration analyst with the Town of Falmouth (Appendix H). Ms. Fleming described the process the town undertook when it adopted an STR ordinance in 2018. Ms. Fleming explained that in writing the town's STR ordinance, the town ordinance committee sought to facilitate data collection to better understand who is renting STRs, where those STRs are located and to obtain rental patterns.⁴ She said the goal was to determine whether the town had a problem with STRs and that the town did not wish to restrict residents from renting their properties.

Commission members then took public comment. Scott Cowger of Hallowell, Edward Libby of Yarmouth, Greg Dugal of HospitalityMaine and Betty Caton of Portland all provided public comment.

C. Third Meeting: October 3, 2022

The third meeting of the commission was held on October 3, 2022. The commission heard from a panel of municipal officials on their experiences regulating STRs. The panel consisted of:

- Nathaniel Rudy, town manager, Gray;
- Kevin Sutherland, town manager, Bar Harbor;
- Kerry Leichtman, town assessor for Camden, Rockport and Rockland; and
- Werner Gilliam, director of planning and development, Kennebunkport.

The following are a sample of the many issues raised by members of the panel.

³ <https://legislature.maine.gov/doc/8948>.

⁴ <https://legislature.maine.gov/doc/8949>

- Increased STR development has changed the use of camp roads and has raised concerns about water quality particularly for Sebago Lake, which is the drinking water source for the Portland region. In addition, septic systems originally built for seasonal camps are often not designed to support the more frequent use of seasonal camps as STRs or camps converted into year-round homes.
- Bar Harbor has an ordinance which requires STRs to register and pay a fee. When registration went into effect, 15.5% of the residential dwellings in Bar Harbor were STRs. Bar Harbor has enacted a 9% cap on allowable STRs based on a percentage of available property in town. This approach over time will reduce STRs in Bar Harbor, but has pushed the “housing as an investment vehicle” (also known as real estate investment trust or REIT) market into surrounding, often more affordable communities impacting their residential properties. The impact of the current market that views housing as an investment vehicle puts pressure on available workforce housing and year-round housing; it’s very different than traditional seasonal rentals.
- STRs cannot be assessed differently under existing allowable categories for property valuation and taxation purposes. This may lead to inflating the assessed value of residential homes which, in turn, may impact tax rates on residential properties. Maine Revenue Services provides the framework for the calculation of value for apartments and lodgings.

A specific breakdown of what each municipal official discussed is available in Appendix I.

Following the panel discussion, the commission held a public comment period. The commission heard from the following: Andrew Cashman representing the Maine Association of REALTORS; Greg Dugal of HospitalityMaine; and Laura Mitchell of the Maine Affordable Housing Coalition.

D. Fourth Meeting: October 17, 2022

The fourth meeting of the commission was held on October 17, 2022. The commission received presentations from Commissioner Jason Shedlock, a regional organizer for the Laborers’ International Union of North America, and Debora Keller, executive director of Bath Housing.

Commissioner Shedlock presented on the State’s aging construction workforce, and how the State has the oldest median age for construction workers in the U.S. at 45 years⁵ (Appendix J). He shared with the commission information on registered apprenticeships, where workers “earn as they learn” and often obtain industry credentials.

Commissioner Shedlock recommended a three-pronged approach to addressing the State’s affordable housing crisis:

- Incentivize living wages with family-sustaining benefits;
- Mandate registered apprenticeship requirements; and

⁵ <https://legislature.maine.gov/doc/9116>

- Encourage and reward projects committed to workforce and community benefits.

Solutions that Commissioner Shedlock proposed include:

- Allowing for increased housing height, density or development;
- Encouraging affordable rental housing development with tax incentives; and
- Considering non-owner-occupied short-term rentals and/or condominium conversion fees to fund MaineHousing programs for development of affordable housing with project labor agreements.

The commission next heard a presentation from Debora Keller (Appendix K). She proposed several solutions in four primary areas: preservation, direct assistance, production, and policy and planning. Below are some of the ideas she discussed in her presentation.

- Preservation
 - Preserve existing apartments serving moderate-income tenants
 - Contain short-term rentals
 - Maximize accessory dwelling units
 - Consider a statewide solution for vacant housing in the State
 - Support small landlords
 - Support nonprofit housing organizations in buying affordable housing units with no-cost or low-cost loan products
- Direct Assistance
 - Keep individuals in housing
 - Preserve the homestead exemption and the recent legislation surrounding property tax freeze
 - Use of Low-Income Heating Assistance Program (LIHEAP) money
 - Expanded use of weatherization and efficiency programs for low-income homeowners and tenants
 - Eviction prevention services
 - Look at income levels being served – often assistance is available to those with incomes less than 50% area median income (AMI) or less than 80% AMI; 120% AMI is the new 80% AMI
- Production
 - The lack of access to capital is a problem in the State. If cost of debt is cheaper, there can be more housing, i.e. through no-cost or low-cost loan products
 - Land acquisition – statewide conversations about creating statewide fund, such as that in Land for Maine’s Future.
 - Affordable Rental Housing Program from MaineHousing
- Policy & Planning
 - The technical assistance offered to municipalities in LD 2003 is valuable in helping local communities create smart policies

- Employers are engaging in housing conversations; there are regional groups of employers and housing organizations between Bath and Freeport – employers are at the table about how they can be part of solution
- Value of working regionally – connect transit conversations to housing and employment conversations

The commission then took public comments. Russell Anderson of Waldoboro, Raina Overskrude of Lewiston, Carol O’Donnell of Brunswick, Audrey Miller of Boothbay and Gina Morin of Auburn all provided testimony. Allina Diaz of Maine Equal Justice Partners also provided public comments on behalf of Belinda Kande.

Commissioner Erik Jorgensen, representing MaineHousing, provided an overview of AirDNA to the commission. AirDNA is a commercial service that “scrapes” listings from the major online STR platforms, VRBO and Airbnb. The data compiled by MaineHousing and AirDNA showed that from 2010 to 2020, the number of housing units in the State increased from 721,830 to 739,072, or just over 2%⁶ (Appendix L). Between 2019 through 2021, using data collected by the American Community Survey, the total number of vacant units statewide decreased by around 14%, likely due to the onset of the novel coronavirus (COVID-19) pandemic which led to increased remote work. Commissioner Jorgensen said it is reasonable to assume that many people came to the State during these years to purchase property and work remotely or work from second homes they already owned.

According to Commissioner Jorgensen, AirDNA data indicates there is an aggregate total of 24,028 STR units in the State that were rented for at least part of 2022 – equal to around 3% of all housing units in the State. Of the total units, 21,537 were entire apartment units or whole units, with the rest comprised of individual rooms and some hotel rooms or other shared-space situations. Of the 21,537 entire home or apartment STRs, many listed on STR websites are not suitable for year-round residence, including boats, caves, igloos and yurts. MaineHousing attempted to remove these listings, bringing the total down to 18,032.

Of the 18,032 “whole home” rentals, MaineHousing further broke down that data by days rented:

- 39%, or 7,076, were used as STRs for greater than 90 days per year;
- 34%, or 6,162, were used as STRs for between 31 to 90 days per year; and
- 27%, or 4,794, were used as STRs for 30 days or less.

Commissioner Jorgensen also provided commission members with a chart that lists municipalities with the most “whole home” STRs in the State. He noted that the highest density of STRs occurs in communities where there is a high level of tourism, including near the ocean, near ski areas and around lakes.

Commissioner Jorgensen also provided commission members with a handout which included communities with the highest prevalence of STRs that are rented more than 120 days per year to the total number of housing units in each community. One data sample from the table shows that

⁶ <https://legislature.maine.gov/doc/9119>

of the 580 STRs in Bar Harbor, 277 of those STRs are utilized as such for over 120 days per year, comprising 7.6% of Bar Harbor’s housing stock.

Jorgensen told commission members that it is difficult to draw any firm conclusions from this data set as it is an initial sketch of STRs available in the State. He writes *“but it is clear from our initial analysis that STR’s are not likely to be considered a major housing factor in most Maine municipalities, as the total number of those properties rented for any amount of time is just around 3% of all housing stock in the State.”*

He also writes that *“in places where STRs do constitute a significant proportion of a locality’s housing stock, particularly in small towns such as in Bar Harbor or Newry, the visibility and impact of STR’s is (as the commission has heard) significant.”*

Commission staff then reviewed a list of potential recommendations for the commission to consider.⁷

E. Fifth Meeting: October 24, 2022

The fifth meeting of the commission was held on October 24, 2022. After commission member introductions, the commission began discussion on recommendations with GrowSmart Maine and Build Maine’s Policy Action 2023 plan introduced by Commissioner Nancy Smith (Appendix M). Prior to the fifth meeting, commission members were encouraged to submit any potential recommendations to commission staff, who then compiled these recommendations into a worksheet for discussion purposes.⁸ The commission used the worksheet as a tool for discussion of final recommendations.

The commission also heard public comments from: Elizabeth Frazier of Maine Real Estate and Development Association (MEREDA), Betty Caton of Portland, Cate Blackford of Maine People’s Alliance, Laura Mitchell of the Maine Affordable Housing Coalition and Nancy MacLean of Wells.

F. Sixth Meeting: October 31, 2022

At its sixth and final meeting on October 31, 2022, the commission heard public comment from: Debbie Laurie, city manager of Bangor; Danielle West, interim city manager of Portland; Kristen Barth, social services director, City of South Portland; Scott Morelli, city manager, City of South Portland; Mary Cook of Opportunity Alliance; Jane Maynard, General Assistance (GA) administrator at the City of Saco; Martin Puckett, deputy city manager, City of Presque Isle; and Harrison Deah, director of GA, City of Westbrook.

The commission also reviewed a draft commission report as well as comments, questions and feedback on the draft report that had been submitted by members prior to the meeting. The information regarding the substantive discussions, votes and recommendations are included in the recommendations section of this report.

⁷ <https://legislature.maine.gov/doc/9120>

⁸ <https://legislature.maine.gov/doc/9174>

III. Background

The State is still in the midst of an affordable housing crisis, as documented by the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restriction in Resolve 2021, chapter 59.

The median home price in the State was \$295,000 in 2021, \$255,000 in 2020 and \$225,000 in 2019 – a 16% increase over 2020 and a 31% increase since 2019. The number of housing units sold in 2021 was 20,585, a 2% increase over 2019. The median house price in the State is unaffordable for the median income household in all State counties, except Aroostook County.⁹ According to the U.S. Department of Housing and Urban Development, fair market rent for a two-bedroom rental in the State ranges from \$767 to \$1,637 per month and is unaffordable for the average renter household in all areas of the State.

In April 2022 the 130th Legislature enacted P.L. 2021, chapter 672, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. This legislation made a number of changes to the zoning and land use laws to increase affordable housing in the State, including:

- Requiring a level of density for affordable housing developments,
- Increasing the allowable number of dwelling units allowed where housing already exists; and
- Allowing the use of accessory dwelling units.

A number of provisions of this law, including the number of dwelling units allowed per lot, affordable housing density and the regulations surrounding accessory dwelling units, do not take effect until July 1, 2023, giving municipalities time to update municipal ordinances, if necessary, to comply with the changes. Therefore, it remains to be seen what effect these legislative changes will have on the housing landscape in the State.

The law also requires that the Department of Economic and Community Development (DECD), in coordination with MaineHousing, establish a statewide housing production goal that increases the availability and affordability of all types of housing in all parts of the State. DECD must also establish regional housing production goals based on the statewide housing production goal.

At the commission's second meeting on September 23, 2022, the commission learned from Commissioner Greg Payne, senior advisor for housing policy in the Governor's Office of Policy Innovation and the Future (GOPIF) that MaineHousing, on behalf of DECD, formally put out a request for proposals (RFP) on September 6, 2022 (Appendix N). The RFP specifies that this research project should be undertaken with consideration of the following.

- Production goals should be based on a comparison of Maine's current housing stock with the housing stock necessary to align with both 10-year and 20-year statewide and regional projections of economic and population growth.

⁹ <https://legislature.maine.gov/doc/8866>

- Production goals should include both the rental and homeownership markets, for households at low, middle- and upper-income levels.
- In addition to establishing the above-referenced housing production goals, the report should include an overview of what the most recent U.S. Census and American Community Survey data says about Maine’s current housing stock, along with a description of the limitations of that data set.
- Given the impact of the STR market on the supply of year-round housing for Maine people, the report should include data on the frequency of use of STRs as well as both State-level and local policy recommendations for addressing those impacts.
- Maine has very old housing stock, much of which is in poor condition. The report should consider, to the extent possible, how the condition of the existing housing stock relates to regional and statewide production goals

Proposals were due to MaineHousing on October 25, 2022. As of the writing of this report, DECD and MaineHousing have not yet selected a qualified entity or individual.

Additionally, P.L. 2021 chapter 673 also specifies that a municipality, in achieving the statewide and regional housing production goals set by DECD:

- must ensure ordinances and regulations are designed to affirmatively further the purposes of the federal Fair Housing Act; and
- may establish and enforce regulations regarding STRs.

The Housing Opportunity Program was established within DECD by P.L. 2021, chapter 635. This program was established to encourage and support the development of additional housing units in the State, including housing units that are affordable to low-income and moderate-income individuals and housing units targeted to community workforce housing needs. DECD is charged with providing technical and financial assistance to support communities implementing zoning and land-use related policies necessary to support increased housing development. The law specifies that DECD shall solicit applications for and award grants through a competitive bidding process.

The law also establishes two positions within DECD through June 8, 2024 to assist with the duties of the Housing Opportunity Program and provides \$2.45 million in funding for grants; \$1 million to regional services providers for ordinance development; and \$1.45 million for community housing implementation grants to individual towns to support community housing priorities. The law also provides \$100,000 to municipalities for one-time reimbursement funds for the costs of amending and implementing ordinances related to the legislation.

Last year’s housing commission established by Resolve 2021, chapter 59 noted a number of additional considerations that the commission was either not able to fully explore or felt were beyond the scope of its charge, including STRs. STRs were a large focus during this year’s commission meetings, specifically what, if any, impact those STRs have on the State’s housing market. MaineHousing in September 2022 entered into an agreement with STR data management company AirDNA to provide data and statistics on STRs in the State.

In response to the COVID-19 pandemic, the federal government created the Emergency Rental Assistance Program (ERAP) to assist tenants with paying rent and utilities if they have been financially affected by the pandemic. Tenants must meet specific income guidelines. ERAP is administered in Maine by MaineHousing and local community action programs (CAPs) with federal money and program guidance from the U.S. Department of Treasury. Due to an anticipated funding shortfall because of an increase in applicants, MaineHousing announced that as of 5 p.m. on September 29, 2022 new applications for program benefits are not being accepted. As of September 30, the ERA program in Maine has aided 33,719 households and expended more than \$275 million.¹⁰ Over 11,000 applications received prior to the pause will be processed by MaineHousing and the CAPs.

The commission learned that the pause in the ERAP will affect over 8,578 households and 121 communities in Maine, creating a humanitarian crisis when the need for housing continues after the program ends. This is in addition to the housing crisis which the State already faces.

IV. Recommendations

Recommendation #1. Establish a statewide searchable database of residential short-term rentals (14 in favor, 2 opposed, 1 absent).¹¹

A majority of the commission recommends that the State of Maine establish a statewide searchable database of residential short-term rentals (STRs). Commissioner Erin Cooperrider, an experienced housing developer, noted, “*all housing policies are based on data.*” The commission believes the State needs to gather data to adequately assess the impact STRs have on the availability of affordable housing and long-term rental unit and a searchable database is key to ensuring that the State, policymakers and the public are well informed.

“Short-term rental” is not currently defined in State law. However, roughly 10 municipalities, mostly southern coastal communities, in Maine have adopted ordinances regulating STRs. Generally, a “short-term rental” is defined as a rental of a residential home or accessory dwelling unit for a short period of time.

Nationwide, at least one state currently requires registration of STRs: Massachusetts. In 2019, Massachusetts enacted Acts of 2018, Chapter 337, which requires all STR properties to be registered with the state’s Executive Office of Housing and Economic Development, and directs that agency to oversee and implement the regulations for the statewide registry.

At least two states require licensure of STRs. Florida requires a “transient public lodging establishment” which is rented to guests more than 3 times in a calendar year for periods of less than 30 days or one calendar month, or which is advertised or held out to the public as a place

¹⁰ <https://www.mainehousing.org/news/news-detail/2022/09/30/mainehousing-pauses-emergency-rental-assistance-program>

¹¹ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, Rebecca Graham, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen, Nancy Smith; Oppose: Paul McKee, Gregory Payne; Absent: Representative Joshua Morris

regularly rented to guests, to obtain a license. Wisconsin requires any person who maintains, manages or operates an STR for more than 10 nights each year to obtain a license.

Commissioner Greg Payne, senior advisor for housing policy at GOPIF, voted in opposition because he would like to evaluate whether the housing production goals research now underway might provide an alternative and less costly means of gathering this data. At the September 23 meeting, Commissioner Payne informed the commission that MaineHousing on behalf of DECD put out a request for proposals on September 6 for a research project (Appendix N). The RFP is in response to statewide and regional housing production goals to be established by DECD and, among other things, specifies that the research include data on the frequency of use of STRs as well as State-level and local policy recommendations for addressing STR impacts on housing supply.

Commissioner McKee also voted in opposition because municipalities are already gathering information on and regulating STRs as needed and in a manner as they see fit.

Recommendation #2. Amend Title 30-A, section 4364-C, subsection 2 to reaffirm municipal authority to adopt ordinances regulating STRs (12 in favor, 5 absent).¹²

The commission unanimously recommends that the Legislature amend Title 30-A, section 4364-C, subsection 2 to reaffirm a municipality's authority to adopt a local ordinance regulating STRs. At the final commission meeting on October 31, Commissioner Clancy brought to the commission's attention that, according to the chair of the board of selectman in Kennebunkport, the Town of Kennebunkport's ordinance regulating STRs is being challenged in court on the grounds that Kennebunkport does not have authority to regulate STRs.

LD 2003, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, which came from the recommendations of the last year's housing commission and has been enacted as P.L. 2021, chapter 672, includes a provision explicitly stating that municipalities may regulate STRs. Title 30-A, section 4364-C, subsection 2 states:

2. Municipalities may regulate short-term rentals. A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.

While many may not yet be aware that this new provision is in State law, the commission believes it is important to make sure the current law is comprehensive enough to affirm municipal authority with respect to local regulation of STRs.

¹² Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Patrick Clancy, Erin Cooperrider, Katherine McGovern, Paul McKee, Rebecca Graham, Erik Jorgensen, Nancy Smith; Absent: Representative Joshua Morris, Heather Spalding, Lado Ladoka, Jason Shedlock, Gregory Payne

Recommendation #3. Redirect a portion of the revenue from the sales tax on STRs to municipalities where STRs are located (14 in favor, 1 abstention, 2 absent).¹³

The commission unanimously recommends redirecting a portion of the revenue from the sales tax, commonly referred to as the “lodging tax,” on STRs to municipalities where STRs are located.

The Maine Sales and Use Tax Law imposes a tax on “rental of living quarters in any hotel, rooming house, tourist or trailer camp” including casual rentals. Every person who owns, manages or operates, in the regular course of business or on a casual basis, a hotel, rooming house, tourist or trailer camp or who collects or receives rental payments on behalf of the owner, manager or operator, must register for and collect Maine sales tax on the rentals. A property does not have to be advertised or held out to the public at large in order for rentals of the property to be taxable. Currently, the lodging tax rate is 9%.

The application of the sales tax on STRs dates back to 1959. Prior to 2005, casual sales were not subject to the sales tax. “Casual sale” is defined in Title 36, section 1752, subsection 1-D of the Maine Revised Statutes; generally, “casual sale” means rentals which are not in the regular course of business. However, a provision in the General Fund Biennial Budget Bill in 2005 (Public Law 2005, chapter 12) provides that a sales tax must be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp with the exception of rental of living quarters when that rental is for fewer than 15 days each calendar year.

The law was further amended (Public Law 2005, chapter 218) to provide that a person who owns property and offers for rental more than one property in Maine during the calendar year is liable for collecting tax with respect to the rental of each unit regardless of the number of days for which it is rented.

In 2018, the law (Public Law 2017, chapter 375) expanded the provision for sellers required to register to collect and report sales taxes to include online real property rental platforms. The law defines “room remarketer” and “transient rental platform.” Regardless of the number of days for which it is rented, if it is a “room remarketer” (e.g. Expedia) or “transient rental platform” (e.g. VRBO or Airbnb), the seller must collect the sales tax.¹⁴

Recommendation #4. Create a use category in State law for a property wholly used as an STR into a separate category for property tax assessment purposes (16 in favor, 1 absent).¹⁵

The commission unanimously recommends creating a use category that shifts the assessment of properties wholly used as an STR into a separate category to reduce the impact on residential

¹³ Favor: Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, Rebecca Graham, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen, Paul McKee, Nancy Smith; Abstain: Gregory Payne; Absent: Senator Craig Hickman, Representative Joshua Morris

¹⁴ <https://legislature.maine.gov/doc/9114>

¹⁵ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, Rebecca Graham, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen, Paul McKee, Gregory Payne, Nancy Smith; Absent: Representative Joshua Morris

assessments. The commission finds that it is important to create a distinction between owner-occupied rental units and non-owner-occupied rental units. Commissioner Rebecca Graham, representing the Maine Municipal Association, noted, “*this removes the investment use of property in a residential setting from driving your grandmother, who lives in the same neighborhood, from her home because of disproportionate tax assessment.*”

After the final meeting and upon review of a draft of the final report, Commissioner Smith commented that she believes this recommendation is one of the most significant actions the Legislature can take to protect current housing.

Recommendation #5. Support certain policy action proposals put forth in GrowSmart Maine and Build Maine’s Policy Action 2023 plan.

Commissioner Nancy Smith, executive director of GrowSmart Maine, brought to the commission’s attention GrowSmart Maine and Build Maine’s Policy Action 2023 plan¹⁶, which outlines eight policy actions – many of them relating to housing (Appendix M). The Policy Action 2023 plan was presented at GrowSmart Maine’s Summit on October 13, 2022.

GrowSmart Maine is a statewide nonpartisan nonprofit organization that advocates for policies and projects that advance Maine’s business and economic growth and development in balance with the conservation and enrichment of built and natural environments. Build Maine is a nonprofit whose mission is to bring builders, bankers, elected officials, engineers, lawyers, planners and financial institutions together to converge annually to share best practices and aspirations for moving Maine forward within current political and economic climates.

Recommendation 5-A. The commission unanimously supports the following provisions from Policy Action #1 in the Policy Action 2023 plan:¹⁷

Increase coordination and collaboration between local, regional, state and tribal government to support development in the right places.

Update the point system used to allocate state funding for infrastructure to ensure it addresses smart growth principles, aligns with climate action plans, and responds to the economic development plan and housing priorities.

In addition, a majority¹⁸ of the commission recommends reviewing the point system used to allocate State funding for infrastructure to ensure the point system addresses workforce

¹⁶ <https://legislature.maine.gov/doc/9175>

¹⁷ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen, Paul McKee, Gregory Payne, Nancy Smith; Abstain: Rebecca Graham; Absent: Representative Joshua Morris

¹⁸ Favor: Senator Craig Hickman, Representative Amy Roeder, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen, Paul McKee, Nancy Smith; Oppose: Senator Matt Pouliot; Abstain: Gregory Payne, Rebecca Graham; Absent: Representative Joshua Morris

development goals, such as registered apprenticeship programs, baseline wages, and minimum health and safety standards for workers.¹⁹

Commissioner Smith clarified that the intention of Policy Action #1 in the Policy Action 2023 plan is to ensure that infrastructure investments are made where development already exists and to avoid sprawling growth.

Recommendation 5-B. The commission unanimously supports the following provision from Policy Action #4 in the Policy Action 2023 plan:²⁰

Improve on designated growth area concept and provide a more relatable framework that aligns better with the kinds of places we have in Maine: crossroads, villages, downtowns, neighborhoods, high-impact corridors, rural farmsteads, working waterfronts, etc.

The commission further unanimously recommends that the Legislature consider amendments to the Growth Management Act to create a more flexible and effective framework for all communities. The commission recommends strengthening legislative oversight of the Growth Management Program and legislative review of the point system provisions in the Growth Management Act.

The Growth Management Act (the Act) in Title 30-A, chapter 187 of the Maine Revised Statutes, was established in 1988 to set out a broad strategy to promote the State's overall economic well-being through orderly growth and development and the protection of its natural and cultural resources. The Act created a framework for local land use planning to make efficient use of public services and protect the State's rural character by preventing development sprawl.

In 1995, administration of the Act was moved from DECD to the State Planning Office (SPO). The focus of SPO was on reducing sprawling development by helping towns and regional organizations integrate Smart Growth principles into their plans. The Legislature created the Community Preservation Advisory Committee and enacted legislation to coordinate State investments with local growth plans and give grant funding preference to programs and projects that discourage sprawl.²¹

In June 2012, SPO was eliminated and DACF assumed SPO's responsibilities relating to the Act.

One of the key elements of the Act is a growth management program, which must include a comprehensive plan. Many municipalities undertake the adoption and implementation of a comprehensive plan, which includes an inventory and analysis section addressing State goals

¹⁹ While Commissioner Neal, who is policy development specialist at the Maine Department of Transportation, voted in support of this recommendation, he qualified his support by expressing his concern about unintended consequences for how decisions are made on transportation infrastructure.

²⁰ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Nancy Smith; Abstain: Rebecca Graham; Absent: Representative Joshua Morris, Gregory Payne, Jason Shedlock

²¹ https://digitalmaine.com/cgi/viewcontent.cgi?article=1057&context=spo_docs

listed in Title 30-A, section 4326, subsection 1. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The comprehensive plan must include:

- a policy development section that relates the findings in the inventory and analysis section to the State goals;
- an implementation strategy section with a timetable for the implementation program, including land use ordinances. The guidelines for policy development and implementation must include identifying and designating geographic areas in a municipality or multi-municipal region as growth areas and rural areas;
- a regional coordination program developed with other municipalities or multi-municipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities; and
- an implementation program.

A municipality or multi-municipal region that is in a coastal area may also include in its comprehensive plan projections regarding changes in sea level and potential effects of the rise in sea level on buildings, transportation infrastructure, sewage treatment facilities and other relevant municipal, multi-municipal or privately held infrastructure or property and may develop a coordinated plan for addressing the effects of the rise in sea level.

The growth management program specifies that the State, with some exceptions, can only make growth-related capital investments in a local designated growth area as identified in a comprehensive plan that is certified by DACF as consistent with the procedures, goals and guidelines of the growth management program.

Additionally, preference for other State grants and investments in programs is governed as follows.

When awarding a grant or making a discretionary investment, a State agency shall respect the primary purpose of its grant or investment program and, to the extent feasible, give preference to:

- first, a municipality that has received a certificate of consistency for its growth management program;
- second, to a municipality that has adopted a comprehensive plan that the former SPO or DACF has determined is consistent with the procedures, goals and guidelines of the growth management program laws and has adopted zoning ordinance that the former SPO or DACF has determined are consistent with the comprehensive plan; and
- third, to a municipality that has adopted a comprehensive plan that the former SPO or DACF has determined is consistent with the procedures, goals and guidelines of the growth management laws.

These above criteria apply to the following, or when the State agency undertakes its own capital investment programs other than for projects identified in section 4301, subsection 5-B:

- programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and
- programs intended to accommodate or encourage additional growth and development, improve expand or construction public facilities or acquire land for conservation or management of specific economic and natural resource concerns.

Recommendation 5-C. The commission unanimously supports the following provisions from Policy Action #5 in the Policy Action 2023 plan:²²

Strengthen the State Historic Tax Rehabilitation Credit to fully realize benefits throughout Maine.

Increase the Qualifying Rehabilitation Expenses for the 25% small project credit to a maximum of \$750,000, working with the existing 5-10% affordable-housing booster.

Allow historic homes, barns and non-income-producing buildings to access tax credits for historic rehabilitation to support goals around developing quality of place and community revitalization. Making the credit available for Maine's stock of historic houses supports the goal of increasing affordable housing and decreasing pressure on Maine's housing market. Program details include: give a 5% booster for low-income applicants (120% AMI for homeownership and 80% AMI for rental), reuse of vacant property and/or inclusion of affordable rental units.

The State Historic Tax Rehabilitation Credit,²³ authorized by Title 36, section 5219-BB in the Maine Revised Statutes, is a tax expenditure program that provides a refundable income tax credit to taxpayers who rehabilitate certain income-producing historic properties in Maine. The credit was enacted in 2008 and was made retroactively available to taxpayers with qualified rehabilitation expenditures determined to meet program standards after January 1, 2008.

Recommendation 5-D. The commission unanimously supports the following provisions from Policy Action #6 in the Policy Action 2023 plan:²⁴

Update subdivision regulations to encourage development in the right places.

²² Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Nancy Smith; Absent: Representative Joshua Morris, Gregory Payne, Jason Shedlock
²³ <https://legislature.maine.gov/doc/7498>

²⁴ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Nancy Smith; Abstain: Rebecca Graham; Absent: Representative Joshua Morris, Gregory Payne, Jason Shedlock

For projects located within Designated Growth Areas and/or public water or sewer, exempt the creation of new units from subdivision review, relying on the local site planning process for those projects.

A “growth area,” commonly known as a “designated growth area,” is defined in the Growth Management Act. “Growth area” means an area that is designated in a municipality’s or multi-municipal region’s comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development projected over 10 years is directed. The comprehensive plan requires municipalities to designate growth areas and rural areas.

Recommendation 5-E. The commission unanimously supports the following provision from Policy Action #7 in the Policy Action 2023 plan:²⁵

Explore policies to incentivize development in downtowns and villages, while reducing sprawl.

Recommendation 5-F. The commission unanimously supports the following provision from Policy Action #8 in the Policy Action 2023 plan:²⁶

Move toward carbon neutral building to advance State climate goals.

Recommendation #6: Increase baseline funding for regional planning agencies (13 in favor, 1 abstention, 3 absent).²⁷

The commission unanimously recommends increasing baseline funding for regional planning agencies. As Judith East, bureau director of the Bureau of Resource Information and Land Use Planning at DACF stated in her September 13 presentation to the commission, there has been a significant loss of State staff and State, regional and municipal resources with regard to land use planning and the growth management program. The elimination of the State Planning Office (SPO) in 2012 has been part of this substantial loss of resources.

Both the previous housing commission in 2021 and this housing commission discussed the idea of providing more technical and financial assistance to municipalities. The commission believes that State and regional planning is key to addressing affordable housing issues. In addition to increasing support for regional planning agencies, other approaches as outlined in GrowSmart

²⁵ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Nancy Smith; Abstain: Rebecca Graham, Gregory Payne; Absent: Representative Joshua Morris, Jason Shedlock

²⁶ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Nancy Smith; Absent: Representative Joshua Morris, Jason Shedlock

²⁷ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Nancy Smith; Abstain: Rebecca Graham; Absent: Representative Joshua Morris, Gregory Payne, Jason Shedlock

Maine and Build Maine's Policy Action 2023 plan Policy #7 include: Support State planning through re-establishing SPO or adding capacity to GOPIF or another State agency.

The commission felt strongly that increasing support for regional planning agencies should be a stand-alone recommendation highlighted in this report.

Recommendation #7. Create a State emergency rental assistance program that mitigates the end of the federally funded Emergency Rental Assistance Program; increase the General Assistance (GA) maximums for housing to match the actual cost of housing; provide greater assistance and resources to municipalities with respect to the processing of GA applications; and, due to this housing crisis, encourage the Governor to consider declaring a state of emergency to increase reimbursement to municipalities immediately.²⁸

The commission unanimously recommends the creation of an emergency State rental assistance program that mitigates the end of the federally-funded Emergency Rental Assistance Program (ERAP). ERAP, which was funded by federal COVID-19 relief funds, has been paused for new and subsequent applications as of September 29, 2022. Maine's ERAP, which is managed by MaineHousing, provides rental and utility relief payments to help eligible renters. Maine's Community Action Agencies (CAPs) review applications, check eligibility and process payments for eligible expenses on behalf of households. Over 11,000 applications, which have been received prior to the pause, will be processed by MaineHousing and the CAPs.

As of September 30, ERAP in Maine has aided 33,719 households and expended more than \$275 million.³⁰ According to Commissioner Erik Jorgensen, the cost of the federally-funded ERAP is approximately \$500,000 per day.

The commission is concerned that the federal assistance available for tenants and landlords to keep tenants housed has terminated at a time when the cost of rent is increasing dramatically in Maine and across the nation. According to MaineHousing, rental prices increased during the pandemic and continue to do so. The same is true for median home prices. Availability of affordable rental (and owned) units are declining as are vacancy rates. Tight inventories are increasing prices and the cost burden for tenants. More Mainers will be cost-burdened unless the cost and supply of housing can be addressed.³¹

According to the Maine Municipal Association (MMA), Maine's municipalities are facing an entirely preventable humanitarian crisis that will impact 121 communities and over 8,578 households. While there is an effort to acquire additional federal funding to extend the program, if ERAP is not extended or replaced, many will simply face being unhoused during Maine's

²⁸ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Nancy Smith; Absent: Representative Joshua Morris, Jason Shedlock

²⁹ Commissioner Payne qualified his support of recommendation #7 as in favor of creating a State program to mitigate the end of the federally-funded ERAP, but he abstains from the remainder of the recommendation.

³⁰ <https://www.mainehousing.org/news/news-detail/2022/09/30/mainehousing-pauses-emergency-rental-assistance-program>

³¹ <https://legislature.maine.gov/doc/8866>

coldest time of year if a long-term solution cannot be found. Any extension must include a plan to ensure tenants are prepared for this.

In light of this looming crisis, the commission recommends that the GA maximums for housing should be increased to match the actual cost of housing; provide greater assistance and resources to municipalities with respect to the processing of GA applications; and, due to this housing crisis, the Governor consider declaring a state of emergency to increase reimbursement to municipalities immediately.

Many of these families are currently in rental housing or hotels with incomes or rent payments that exceed the established limits on GA maximums. Applying for GA funds is their only option. While some communities have charters that allow a payment over and above that State-established maximum, the vast majority cannot. Those currently-housed families will be unhoused by State of Maine policy and lack of response to market forces.

According to MMA, when MaineHousing runs out of funds, Bangor, Portland, South Portland, Lewiston, Caribou and Farmington will have 24 hours to process 2,800 possible applications for rental or emergency shelter payments or face penalties and additional fees for a foreseeable problem not of their making. If 2,800 individuals were unhoused at once because of natural disaster, even in only a handful of communities, the State would not charge a penalty or fee to a community to assist with administrative paperwork. Municipalities have not created this administrative crisis.

Commission members asked whether there is precedent for a state declaring a state of emergency because of a housing crisis. On October 16, 2015, Hawaii Governor David Ige [issued a homeless state of emergency](#). At the time, Governor Ige cited there were approximately 7,620 homeless individuals statewide; 3,843 unsheltered homeless individuals; 185 unsheltered families; and 439 unsheltered children.

In addition to a temporary shelter initiative and those contracts, the Hawaii State Department of Human Services, Homeless Programs Office administered numerous contracts with private providers for homeless services statewide. Some of these services included:

- emergency and/or transitional shelter, including adequate meals or cooking facilities;
- outreach services, including case management to enable families to obtain and retain permanent housing, job training, medical and social services referrals, childcare, education and life skills classes;
- emergency grants, which provide monetary assistance to assist with housing, food, medical and other types of expenses arising from emergency needs, including housing rental deposit and rent, utility costs/deposit, emergency medical care and expenses, transportation and job-hunting expenses; and
- housing placement, which coordinates housing opportunities with private landlords.

These contracts were in the process of being procured when the governor declared a state of emergency. It was not expected that the contract procurement process would be complete before the expiration of these contracts. Therefore, declaring the homeless state of emergency allowed

Governor Ige and the State of Hawaii to continue these contracts without interruption of services to residents. The governor also set aside \$1.3 million for a homeless family shelter.

In addition, at least three cities have also declared states of emergencies related to homelessness: Los Angeles, Seattle and Portland, Oregon.³² In Portland, Oregon, the declaration of this state of emergency allowed officials to bypass certain zoning ordinances, such as those governing the placement of homeless shelters.

Recommendation #8. Prohibit discrimination against housing choice voucher recipients (15 in favor, 2 absent).³³

The commission believes that discrimination against housing choice voucher (also known as Section 8 voucher) recipients is unacceptable and unanimously recommends that the Legislature examine whether the Maine Human Rights Act (MHRA) can be strengthened in this regard.

The Maine Human Rights Act, Title 5, Part 12, Chapter 337 of the Maine Revised Statutes,³⁴ prohibits unlawful housing discrimination for receipt of public assistance. The law says it is unlawful housing discrimination “for any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, State or local public assistance, including medical assistance and housing subsidies, primarily because of the individual’s status as a recipient.”

Commissioner Katherine McGovern, who is an attorney with Pine Tree legal Assistance, specified that while this is State law, the Law Court has issued a decision in *Dussault v. RRE Coach Lantern Holdings, LLC* that weakens this statute.³⁵ Pine Tree Legal Assistance is a nonprofit organization which represents low-income residents in civil legal matters, including representing tenants in a range of rental housing matters.

During the First Regular Session of the 130th Legislature, LD 1180, An Act To Prohibit Discrimination in Housing Based on a Person’s Participation in a Rental Assistance Program, was considered by the Joint Standing Committee on Judiciary. According to public testimony on LD 1180 provided by Amy Sneirson, Executive Director of the Maine Human Rights Commission:

“The Law Court held that the MHRA offered limited protection based on PA [public assistance] receipt because it was only listed in a section related to terms and conditions of tenancy, which was narrower than the MHRA’s broader prohibitions of housing discrimination for other protected bases. The Law Court found that Coach Lantern had no issue with Ms. Dussault’s status as a PA recipient, and that it was willing to rent to her so long as it could do so without doing anything additional required by Section 8. The Law Court focused on the voluntary

³² <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/11/11/cities-states-turn-to-emergency-declarations-to-tackle-homeless-crisis>

³³ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Nancy Smith; Absent: Representative Joshua Morris, Jason Shedlock

³⁴ <https://legislature.maine.gov/legis/statutes/5/title5ch337sec0.html>

³⁵ <https://law.justia.com/cases/maine/supreme-court/2014/2014-me-8.html>.

nature of participation in the Section 8 program, and declined to find that the MHRA could require a housing provider to participate if it did not do so voluntarily.”

The housing choice voucher program is the federal government’s principal program for assisting very low-income families, the elderly and the disabled to afford decent, safe and sanitary housing in the private market. Participants are free to choose any housing that meets the requirements of the program and are not limited to units located in subsidized housing projects.

According to MaineHousing, 14,389 Housing Choice Vouchers are assigned by the federal U.S. Department of Housing and Urban Development (HUD) to Maine. Housing Choice Vouchers are administered locally by public housing agencies (PHAs) in individual communities. In municipalities where there is no PHA, MaineHousing serves as that community’s PHA. Currently, MaineHousing administers approximately one-third of the State’s total vouchers.³⁶

A perennial concern by lawmakers and advocates is that vouchers are going unused, despite the fact that there are waiting lists for vouchers. Because the State does not receive adequate funding from HUD to pay for every voucher and Maine’s rents are relatively high, fewer vouchers can be covered with available funding, leaving a portion of Maine’s vouchers unassigned. Additionally, a large number of vouchers are not always used due to lack of unit inventory and low fair market reimbursement rates.

Recommendation #9. Examine the feasibility of providing tenants with the right of first refusal to purchase a property when the tenant’s landlord sells the building or mobile home park in which the tenant resides (16 in favor, 1 absent).³⁷

The commission unanimously recommends that the Legislature examine the feasibility of giving tenants the right of first refusal in cases where a landlord puts a tenant-occupied building or mobile home park on the market for sale.

Commission members recognize that selling a tenant-occupied building or mobile home park has been used as a mechanism to evict tenants. The commission understands that these transactions are often complex and right of first refusal may not work in many cases. However, the commission strongly supports protecting tenants’ rights. Furthermore, in the interest of finding a category of cases where right of first refusal might be effectively implemented, the commission believes it is worth examining the feasibility of providing tenants with the right of first refusal.

Recommendation #10. Examine establishing a cap on application fees for prospective tenants who are applying for housing (16 in favor, 1 absent).³⁸

³⁶ <https://legislature.maine.gov/doc/9118>

³⁷ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris

³⁸ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris

The commission unanimously recommends that the Legislature examine placing a cap on the amount of application fees paid by prospective tenants who are applying for rental units. Commissioner McGovern noted that because the housing market is very competitive, people looking for a rental unit are required to apply for a large number of rentals. As a result, prospective tenants are forced to submit application fees to multiple landlords not knowing if they are being seriously considered as a tenant. There is no limitation outside the City of Portland on tenant application fees. The City of Portland adopted a local ordinance that caps rental application fees at \$30 or the actual cost of the screening process, whichever is lower.

Representative Amy Roeder, House Chair of the commission, also noted that the City of Bangor is considering placing a limit on application fees for prospective tenants. Representative Roeder shared a story about a person in the Bangor area who spent approximately \$1,000 in rental unit application fees because the City of Bangor has very few rental unit vacancies.

Commissioner Lado Ladoka, representing Democracy Maine, commented that he has seen excessive charges for application fees especially in a tight rental market; in many cases, the prospective tenant is not given the opportunity to view the rental unit. Commissioner Ladoka understands the necessity for some fees since many landlords use software or third-party services to screen prospective tenants. He proposed that the tenant should pay the application fee at the time the landlord offers tenancy. Commissioner Ladoka noted that tenants have limited resources, but landlords need the fees to be able to outsource the service.

Recommendation #11. Examine State law governing no-cause evictions (16 in favor, 1 absent).³⁹

The commission unanimously recommends that the Legislature examine State law regarding no-cause evictions. The commission heard anecdotes from Commissioner McGovern of PTLA and members of the public that no-cause evictions can be problematic. Commissioner McGovern indicated that she has seen long-term residents evicted for seemingly no reason.

According to PTLA's website, a landlord's ability to evict a tenant without reason depends on whether the person is a tenant at-will or has a written lease. If the tenant has a written lease, the landlord likely must have a reason to evict the tenant; however, if there is no written lease (at-will), a landlord may evict a tenant without providing a reason. However, the landlord must provide the tenant a 7-day or 30-day notice in writing with some exceptions. Title 14, section 6002 of the Maine Revised Statutes describes the process in detail.⁴⁰

Recommendation #12. Prohibit a landlord from requiring that a tenant's motor vehicle be registered as a condition of the lease or tenancy at-will agreement for a dwelling unit (16 in favor, 1 absent).⁴¹

³⁹ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris
⁴⁰ <https://legislature.maine.gov/legis/statutes/14/title14sec6002.html>

⁴¹ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris

The commission unanimously recommends that the Legislature prohibit a landlord from requiring that a tenant's motor vehicle be registered as a condition of the lease or tenancy at-will agreement. The commission finds that requiring a tenant to have their motor vehicle registered as a condition of a rental agreement is discriminatory and disproportionately impacts low-income tenants. The commission believes that agents of the State, not landlords, are the enforcers of motor vehicle registration requirements.

Recommendation #13. Consider redirecting more of the real estate transfer tax toward addressing housing needs, including affordable housing production and rental assistance (16 in favor, 1 absent).⁴²

The commission unanimously recommends that the Legislature consider redirecting a portion of the real estate transfer tax toward addressing housing needs, including affordable housing production and rental assistance.

Pursuant to Title 36, chapter 711-A of the Maine Revised Statutes, a tax is imposed on each deed transferring title to real property in Maine and on the transfer of any controlling interest in an entity with a fee interest in real property in Maine, at the rate of \$2.20 for each \$500 or fractional part of the value of the real property. This tax is subject to certain exemptions.⁴³

Of the total tax, 50% is imposed on the grantor (seller) and 50% is imposed on the grantee (purchaser). Currently, 90% of the tax collected during the previous month is forwarded by each county registrar of deeds to the State tax assessor. The remaining 10% is retained by the county and accounted for as reimbursement for services rendered in collecting the tax. Except as otherwise provided by law, 90% of revenue that is forwarded to the State from revenue attributable to transfers by deed (except for foreclosure deeds) is distributed as follows:

A. 50% is credited to MaineHousing's Housing Opportunities for Maine (HOME) Fund established by Title 30-A, section 4853 of the Maine Revised Statutes as Other Special Revenue Funds, and

B. Beginning in fiscal year 2012, 50% is credited to MaineHousing's Maine Energy, Housing and Economic Recovery Fund established by Title 30-A, section 4863 of the Maine Revised Statutes as Other Special Revenue Funds for the repayment of certain bond obligations. Once the amount credited to the Maine Energy, Housing and Economic Recovery Fund equals the amount certified by MaineHousing for bond obligations, the remainder is credited to the General Fund.

In addition, real estate transfer taxes are imposed on a portion of the proceeds from the purchase and sale of foreclosure properties and 100% of the tax on the purchase and sale of foreclosure

⁴² Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris

⁴³ <https://legislature.maine.gov/doc/8031>

properties is dedicated to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection to fund its statewide outreach and housing counseling services.

During the 130th Legislature, LD 418, An Act To Create a Graduated Real Estate Transfer Tax, was considered by the Taxation Committee. LD 418 proposed to decrease the rate of the real estate transfer tax on the first \$150,000 of value of a primary residence to \$1.50 for each \$500 or fractional part of \$500 of the value and increase the tax rate on the value of a primary residence exceeding \$150,000 and on all other property to \$2.50 for each \$500 or fractional part of \$500 of the value. A majority of the Taxation Committee voted “ought not to pass” and a minority voted “ought to pass as amended.” The amendment proposed to increase the rate of the real estate transfer tax for the buyer and seller to \$2.70 per \$500 or the fractional part of \$500 of that portion of the value of the property transferred that exceeds \$1,000,000. The minority report was passed to be enacted, but was vetoed by the Governor. The veto was sustained by the Legislature.

Recommendation #14. Examine whether a portion of publicly-owned real estate ought to be set aside for affordable housing development (16 in favor, 1 absent).⁴⁴

The commission unanimously recommends that the State examine whether a portion of publicly-owned real estate ought to be set aside for affordable housing. At the first commission meeting, Laura Mitchell, executive director of the Maine Affordable Housing Coalition, pointed out that it may be time for the State to “reimagine land use” and to rethink the meaning of what is “highest and best use” of Maine’s land, including, but not limited to, consideration of a new version of a statewide “Land for Maine’s Future” program with land being assigned for affordable housing development.

Ms. Mitchell’s comments resonated with Senator Craig Hickman, Senate Chair of the commission. Senator Hickman pointed out, that while he is not proposing a new version of the Land for Maine’s Future program, if the State owns real estate and Maine is experiencing a housing crisis then the State ought to be looking at its own resources and think about the best use of that publicly-owned property. Perhaps the State and policymakers ought to explore whether housing is a better use of publicly-owned property, whether land or buildings, which Maine residents collectively own.

After the final meeting and upon review of a draft of the final report, Commissioner Smith commented that there is value in linking this recommendation to the newly created statewide land bank infrastructure, which has a similar goal to this recommendation. LD 1694, An Act To Create the Redevelopment Land Bank Authority, was introduced during the 130th Legislature and referred to the Innovation, Development, Economic Advancement and Business (IDEA) Committee. LD 1694, which was passed and enacted as P.L. 2021, chapter 664 establishes the Maine Redevelopment Land Bank Authority, whose purpose is to assist municipalities and other entities in this State in the redevelopment of properties, including properties that are blighted,

⁴⁴ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Erik Jorgensen, Paul McKee, Rebecca Graham, Gregory Payne, Jason Shedlock, Nancy Smith; Absent: Representative Joshua Morris

abandoned, environmentally hazardous and functionally obsolete, in order to return those properties to productive use.

The redevelopment authority may acquire property at the request of a municipality or county. It also establishes:

- a fund to support the purpose of the redevelopment authority, which includes as a source of revenue a fee on the disposal of construction and demolition debris; and
- an advisory committee within the redevelopment authority in order to develop and maintain best practices for community development and to assist the redevelopment authority and any other entity that requests assistance with redevelopment matters.

Recommendation #15. Create a comprehensive permitting process to enable housing proposals containing a certain proportion of affordable housing units to be considered by municipalities in a manner that consolidates review and local permitting within one local agency and enables review to be processed in an expedited manner (13 in favor, 2 opposed, 1 abstention; 1 absent).⁴⁵

A majority of the commission recommends that the Legislature create a comprehensive permitting process to enable housing proposals containing a certain proportion of affordable housing units to be considered by municipalities in a manner that consolidates review and local permitting within one local agency and enables review to be processed in an expedited manner. The housing commission believes this could simplify and streamline local processes without affecting local control.

Commissioner Clancy, who proposed this recommendation, believes a legislatively-created State housing oversight board (“the board” or “the housing board”) could further assist worthwhile proposals on moving forward expeditiously without affecting local control if structured as follows.

- Local decisions in favor of qualifying housing proposals could only be appealed by abutters or other opponents by first appealing to the housing board, which would hear the matter and agree or disagree with the local decision. If the board disagreed, the petitioner opposing the housing proposal could then contest it in State court on existing terms. If the State concurred in the local approval, a petitioner opposed to the proposal would be required to post a bond to appeal the local, housing board-supported decision in State court. This bond would be intended to secure the payment of costs if the court finds the harm to the proponent of the proposal or to the public interest occasioned by the delays caused by the litigation merits payment based on the lack of merit to the appeal.
- Local decisions against qualifying housing proposals could not be appealed to the housing board but the board would be informed of them. The housing board would

⁴⁵ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen Paul McKee; Oppose: Rebecca Graham, Gregory Payne; Abstain: Nancy Smith; Absent: Representative Joshua Morris

review the decision, consult with the locality and the proponent as appropriate and offer any suggestions as to ways to resolve the disagreement between the locality and the proponent. To aid the board in this work, the housing board would draw on technical advisors to the board with deep experience in local permitting and affordable housing creation. The housing board's suggestions would be advisory only and not in any way binding on local officials.

The housing commission believes a housing board structured in this manner could lessen the delays occasioned by opponents when there is local approval and engage the State in being a resource to municipalities and developers where disputes over affordable housing proposals can potentially be resolved in a positive manner consistent with local concerns. Particularly as this board would have extensive experience with disputed proposals, it could potentially become more useful in educating opponents and assisting localities and developers in getting to "yes."

Commissioner Greg Payne of GOPIF voted in opposition because the Governor's Office would like to allow more time to see the effects of the implementation of the recently enacted LD 2003, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions (P.L. 2021, chapter 672), particularly the provisions relating to land use which go into effect July 1, 2023. Commissioner Graham from MMA also voted in opposition because she feels it adds another layer of bureaucracy that is going to require funding; those funds might be better spent on providing technical support to communities when there are questions whether or not an ordinance is clear and in favor of development.

Recommendation #16. Recommend that the Legislature allocate an investment of State resources totaling at least \$60 million to fund the construction of affordable housing and the expansion of construction workforce development programming and the marketing of those programs (15 in favor, 2 absent).⁴⁶

The commission unanimously recommends that the Legislature fund a significant investment in affordable housing infrastructure to supplement, incentivize and catalyze municipalities and developers to work to build new affordable housing. Further, as no housing development can be built without an adequately trained construction workforce, investments in our State, regional and local workforce development system is critical to operationalizing efforts to combat Maine's affordable housing crisis. Whether via an appropriation from the State's General Fund, a public bond, or other funding mechanism, the commission recommends a minimum of a \$50 million investment for affordable housing and an additional minimum of \$10 million to fund building trades programs, to include the promotion and marketing of those programs, totaling a combined baseline of \$60 million.

The commission believes that housing infrastructure is vital for the growth of Maine businesses, workforce and economy as a whole. Maine cannot thrive without critical housing infrastructure nor can housing infrastructure be built without a well-trained workforce. Housing is vital to

⁴⁶ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen Paul McKee, Rebecca Graham, Nancy Smith; Absent: Representative Joshua Morris, Gregory Payne

people from all walks of life. Adequate funding for the development of affordable housing infrastructure and a robust construction workforce development program (that is well known among Mainers as well as accessible and affordable) work hand in hand to meet Maine’s critical needs.

Recommendation #17. Require public notice at least two years prior to the expiration of federally-financed, State-financed or State-incentivized affordable housing mortgages so that housing advocates, housing organizations and tenants can start the process of preserving these properties (16 in favor, 1 absent).⁴⁷

The commission recommends, at a minimum, that federally-financed, State-financed or State-incentivized affordable housing properties be surfaced at least two years prior to the expiration of those affordability covenants so that housing advocates and organizations focused on preserving affordable housing and tenants have time to begin the work to preserve them.

Debora Keller, executive director of Bath Housing, spoke about preservation of existing affordable housing in her presentation to the commission on October 17, 2022. In addition, Commissioner Ladoka and Commissioner John Egan, senior program officer at the Genesis Fund, both spoke about the importance of preserving affordable housing – particularly units in the U.S. Department of Agriculture (USDA) rural rental housing loans program, also known as the Section 515 program. The Rural Housing Service (RHS) is part of Rural Development (RD) at USDA. It operates a broad range of programs that were formerly administered by the Farmers Home Administration to support affordable housing and community development in rural areas. RHS provides direct loans (made and serviced by USDA staff) and also guarantees loans for mortgages extended and serviced by others. Rural renting housing loans (Section 515) are direct, competitive mortgage loans made to provide affordable multifamily rental housing for very low-, low-, and moderate-income families, elderly persons and persons with disabilities.⁴⁸

During the loan period, property owners must retain affordable rents (the greater of basic rent or 30% of the tenant’s adjusted income), but once mortgages are paid off, owners have the option to convert the property to other uses including market rate housing.⁴⁹ Many of these loans were originally financed with 50-year mortgages and a substantial amount of these mortgages will be expiring soon. Most of these properties are considered small properties with 12 to 40 units at most. Currently, there are considerable efforts to get nonprofit owners to purchase these properties before the mortgages expire so housing advocates can do rehabilitation through the State’s affordable housing tax credit and allocation of Community Development Block Grant (CDBG) funds, which are dedicated to preserving rental housing. Approximately, 60% are senior housing with the balance as family housing. There are also two Section 514 rental housing properties: one on-farm specifically for agricultural workers and the other in Milbridge to house workers for the fishing industry. In many communities, this is the only rental housing available.

⁴⁷ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Heather Spalding, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Erik Jorgensen Paul McKee, Rebecca Graham, Gregory Payne, Nancy Smith; Absent: Representative Joshua Morris

⁴⁸ <https://files.hudexchange.info/resources/documents/Rural-Rental-Housing-Loans-Section-515Summary.pdf>

⁴⁹ <https://ced.sog.unc.edu/2018/12/changing-dynamics-of-usda-section-515-program/>

There are about 7,800 units total in Maine that could expire in the next 10 years and a little over 320 properties.

Recommendation #18. Create a permanent commission on housing and establish a separate stand-alone joint standing committee of the Legislature on housing matters (16 in favor, 1 abstention, 1 absent).⁵⁰

The commission unanimously recommends that the Legislature create a permanent commission on housing and also recommends that the Legislature establish a separate, stand-alone joint standing committee of the Legislature on housing matters.

Commissioner Ladoka commented that the current housing need in Maine is approximately 20,000 units; at the current rate of housing production in Maine, which is approximately 250 new units per year, even if Maine were to bump up production to 1,000 new housing units per year, it would take Maine at least 20 years to meet the existing need for housing. Commissioner Ladoka further explained that if the State established a longer-term housing commission, housing advocates and organizations and policymakers will be able to identify the hurdles to bringing more housing units online. Commissioner Shedlock agreed and commented that housing issues continue to evolve and the housing study commission has identified that lack of affordable housing is a crisis so it is fitting that a long-standing commission of subject matter experts be established. Commissioner Graham commented that it is important the membership of the permanent commission include those who live in low-income subsidized housing. Senator Hickman, Senate Chair of the housing study commission, agreed that there is a looming humanitarian crisis

Commission member Senator Matt Pouliot introduced the idea of establishing a separate, stand-alone joint standing committee of the Legislature on housing matters; the rest of the commission members present agreed.

VI. Conclusion

The completion of the commission's work and the publication of its report occurs at a time when Maine is facing a humanitarian crisis due to the end of the federally-funded Emergency Rental Assistance Program (ERAP). Maine is facing a housing crisis, which has been exacerbated by the end of ERAP. The commission also recognizes that the issue of housing is multi-faceted and requires a wide variety of stakeholders and expertise to contribute to increasing housing opportunities in the State. Commissioners noted that the recommendations put forth in this report are not the only solutions for solving the State's housing shortage, but represent a wide variety of ideas from various experts that seek to address both the immediate concerns and the issue of long-term housing availability in this State. Commissioners look forward to working with the 131st Legislature to refine the details of the recommended proposals in this report to craft legislation that will advance the State's policy goals on housing.

⁵⁰ Favor: Senator Craig Hickman, Representative Amy Roeder, Senator Matt Pouliot, Ryan Neale, John Egan, Patrick Clancy, Erin Cooperrider, Lado Ladoka, Katherine McGovern, Jason Shedlock, Paul McKee, Rebecca Graham, Gregory Payne, Nancy Smith, Heather Spalding; Abstain: Erik Jorgensen; Absent: Representative Joshua Morris

Finally, the commission would like to thank all of the presenters and members of the public for generously offering their time, expertise and advice on the complicated issues involved in increasing housing opportunities in this State. Their knowledge and perspectives were invaluable to the commission as it endeavored to develop recommendations on these challenging and complex, but also critical issues. The commission also would like to thank staff for their time and dedication to the commission's work.

APPENDIX A

Authorizing Legislation: Resolve 2021, chapter 184

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

S.P. 408 - L.D. 1240

**Resolve, To Establish a Commission To Increase Housing Opportunities in
Maine by Studying Land Use Regulations and Short-term Rentals**

Sec. 1. Commission established. Resolved: That the Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 17 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Two members of the House of Representatives appointed by the Speaker of the House, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
3. The Director of the Maine State Housing Authority or the director's designee;
4. One member representing the Office of the Governor, appointed by the Governor;
5. Five public members, one representing a statewide municipal association, one representing a statewide organization that advocates for affordable housing, one representing statewide agricultural interests, one with expertise in transportation matters and one who is in the building trades, appointed by the President of the Senate; and
6. Six public members, one representing a regional planning association or a statewide organization that advocates for smart growth policies and projects, one representing the real estate industry, one who is a residential developer, one representing an organization that advocates for low-income or middle-income renters or homeowners, one representing a local or statewide organization promoting civil rights that has racial justice or racial equity as its primary mission and one representing a nonprofit organization with expertise in strategies for building affordable homes for ownership, appointed by the Speaker of the House.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That, notwithstanding Joint Rule 353, all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business. To the greatest extent practicable, the appointing authorities shall appoint the persons they appointed to the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions under Resolve 2021, chapter 59.

Sec. 5. Duties. Resolved: That the commission is authorized to meet 6 times and shall:

1. Review data on housing shortages in the State for low-income and middle-income households and data on the conversion of housing units to short-term rentals in the State;
2. Review state laws that affect the local regulation of land use and short-term rentals and consider whether they fulfill the goals set forth in the Maine Revised Statutes, Title 30-A, section 4312, subsection 3, including but not limited to the promotion of affordable housing; promotion of an economic climate that increases job opportunities and overall economic well-being; and protection of the State's water resources and other critical natural resources;
3. Review efforts in other states and municipalities to address housing shortages through changes to land use restrictions and regulation of short-term rentals;
4. Consider strategies for affordable home ownership through changes to land use restrictions; and
5. Consider measures that would encourage municipalities to increase available housing, including but not limited to municipal incentives and statewide regulation of short-term rentals.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than November 2, 2022, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over housing matters.

Sec. 8. Outside funding. Resolved: That the commission shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed.

Sec. 9. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds for the costs to the Legislature of the Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
Personal Services	\$0	\$880
All Other	\$0	\$1,370
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,250

APPENDIX B

**Membership list, Commission to Increase Housing Opportunities in
Maine by Studying Land Use Regulations and Short-term Rentals**

**Commission to Increase Housing Opportunities in Maine by Studying
Land Use Regulations and Short-term Rentals**

[Public Law 2021, Ch. 184](#)

Membership List

Name	Representation
Senator Craig V. Hickman – Chair	Member of the Senate
Representative Amy Roeder– Chair	Member of the House
Senator Matthew G. Pouliot	Member of the Senate
Representative Joshua Morris	Member of the House of Representatives including a member from each of the 2 parties holding the largest number of seats in the legislature
Nancy E. Smith	Member representing a regional planning association or a statewide organization that advocates for smart growth policies and projects
Ryan Neale	Member with expertise in transportation matters
Rebecca Graham	Member representing a statewide municipal association
John Egan	Member representing a statewide organization that advocates for affordable housing
Heather Spalding	Member representing statewide agricultural interests
Patrick Clancy	Member representing a nonprofit organization with expertise in strategies for building affordable homes for ownership
Erin Cooperrider	Member who is a residential developer
Lado Ladoka	Member representing a local or statewide organization promoting civil rights that has racial justice or racial equity as its primary mission
Katherine McGovern	Member representing an organization that advocates for low-income or middle-income renters or home owners
Paul McKee	Member representing the real estate industry
Jason Shedlock	Member who is in the building trades
Erik Jorgensen	Director of the Maine State Housing Authority or Director’s Designee
Gregory Payne	Member representing the Office of the Governor

APPENDIX C

**Examples of local ordinances regulating short-term rentals (STRs)
in Maine, provided by the Office of Policy and Legal Analysis**

Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

Examples of Local Ordinances regulating Short-term Rentals (STRs) in Maine
Non-comprehensive list as of September 1, 2022

Bar Harbor – effective date December 2, 2021

- All short-term (formerly vacation) rentals must be registered with the Town of Bar Harbor on an annual basis, prior to rental. All applications must be accompanied by the \$250 annual fee.
- Short-Term Rental: includes vacation rental, vacation rental-1 (VR-1) and vacation rental-2 (VR-2).
- VR-1: A dwelling unit, or portion thereof, that is the primary residence of the property owner or on the owner's primary residence property and is rented to a person or group for less than 30 days and a minimum of two nights. The rental portion of the dwelling, such as a bedroom, must be located in the principal structure housing the dwelling unit.
- VR-2: An entire dwelling unit that is not the primary residence of the property owner and is rented to a person or a group for less than 30 days and a minimum of four nights.

Portland – effective January 1, 2018

- Short-term rental units must be registered with the City of Portland on an annual basis.
- Registration fees are based on two categories – “owner occupied units, tenant occupied units, island short-term rentals” and “Non-owner occupied mainland units.”
- Fees range from \$100 per year for the first unit of an owner-occupied unit to \$4,000 per year for the fifth unit of a non-owner-occupied mainland unit.
- Building limits are specified. For example, 1-2 total units = 1 STR allowed and 10+ total units = 5 STRs allowed. Tenant, owner and non-owner-occupied units are counted toward these limits. Owners may register up to five units within their primary residence.

Portland – Citizen Initiative Referendum Questions on November 8, 2022 Ballot

- An Act To Reduce the Number of Short-Term Rentals in Portland
 - Will restrict all Portland STRs to only those that are owner-occupied, tenant-occupied, or located in two-unit buildings occupied by the owner. Also requires notification to all residents w/in 500 feet of a registered STRs and allows city to revoke STR registrations.
- An Act To Regulate Short-term Rentals in Portland and Prohibit Corporate and Absentee Operation of Short-term Rental Properties
 - Will prohibit corporate owners and non-local operators from registering short-term rentals in the city. It prohibits eviction of tenants for the purpose of immediate conversion to short-term rentals and prohibits affordable and workforce housing from being used as short-term rentals.

South Portland – effective January 1, 2019

- STR units must be registered with the City of South Portland annually.
- Short-term rental guest means any person who rents, licenses, occupies or has the right to occupy a dwelling unit or accessory dwelling unit, in whole or in part, for less than 30 consecutive days.
- The annual license fee for a hosted-home stay is \$200 and for a non-hosted home stay \$400.
- There is also a one-time \$100 fire inspection fee, which is required for new applications and as deemed necessary by the Fire Chief.

Freeport – effective July 1, 2019

- No person shall operate a STR without first receiving a registration number and certificate for the STR from the Freeport Town Clerk. Annual fee is \$100.
- Short-term Rental (STR): The use, control, management or operation of a legally-existing dwelling unit, in whole or in part, for dwelling, sleeping or lodging purposes for fewer than twenty-eight (28) consecutive days and for compensation, directly or indirectly. Short-term rentals do not include motels, hotels and bed and breakfast inns. A short-term rental does not include legally existing dwelling units that are rented no more than twice per calendar year and for less than a total of 14 days in a calendar year.

Kennebunkport – effective January 1, 2022

- No STR shall be advertised, rented or operated without first obtaining a STR license.
- **SHORT-TERM RENTAL** — The use, control, management or operation of a legally existing residential dwelling unit offered for rent for transient occupancy for dwelling, sleeping or lodging purposes by short-term rental guests for a tenancy of less than 30 consecutive days, for compensation, directly or indirectly, excluding motels, hotels, bed-and-breakfasts, inns, seasonal rental accommodation complexes, and residential rental accommodations.
- Fee schedule for 2023: \$325 – 3 bedrooms or less; \$475 – 4 bedrooms or more.

Falmouth – effective January 1, 2022

- No person shall advertise, operate or rent a STR in the Town of Falmouth without first registering the STR with the town. The annual registration fee is \$300.
- Short-term rental is defined as the advertising, offering for rent, use, control, management, or operation of a dwelling unit in whole or in part, for dwelling, sleeping, or lodging purposes for a period of less than thirty consecutive days, for compensation, directly or indirectly.

Cape Elizabeth – effective July 1, 2022

- No STR shall be advertised, rented, or operated without first obtaining a STR Permit. The annual registration fee is \$500.
- A STR may be operated by a property owner in their primary residence when:
 - **Primary Residence Hosted** - the property owner is in residence, including overnight, during the tenancy of the STR tenants. The STR must be located within the host's dwelling unit and not in an area functioning as a separate dwelling unit.
 - **Primary Residence Unhosted** - the property owner is not in residence during the tenancy of the STR tenants. The property may be used as a STR for no more than 42 days per calendar year.
- **Seven Acres Plus STR.** A STR may be operated by a property owner in their primary residence or non-primary residence when the property owner is in residence or not in residence during the tenancy of the STR tenants, where the lot is seven acres or more in size. The property may be used as a STR for no more than 182 days per calendar year.
- **Short Term Rental Adjacent.** One STR may be operated by a property owner in a non-primary residence when the STR owner's primary residence is located on the same lot as the STR or an abutting lot. The property owner must be in residence during the tenancy of the STR tenants. The property may be used as a STR for no more than 105 calendar days per calendar year.

APPENDIX D

**Presentation: Maine's Growth Management Act by Judith East,
Bureau of Resource Information and Land Use Planning,
Department of Agriculture, Conservation and Forestry**

Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

September 13, 2022

History of the Growth Management Program
Judy East, Bureau Director
Resource Information and Land Use Planning
Department of Agriculture, Conservation and Forestry



Short Term Rentals: a case study of Growth Management

Parallels in the “Push-Pull” of land use and economic regulation

- ▶ Regulatory response to significant development pressures
- ▶ Private property vs. community needs/rights
- ▶ Affordable housing - need, means to achieve
- ▶ Home rule and state oversight

The context for both GM Law and STRs

- ▶ Complex and controversial
- ▶ Land use is local; most everything else is regional+
- ▶ Powerful market forces
- ▶ Spectrum of responses with increasing regulatory burden
 - ▶ Registration, licensing, use regulation

GM Law legislative history - significant dates

- 1989 ▶ Enacted
- 1991 ▶ Repealed/reinstated
- 1999-2001 ▶ Growth-related capital investments ++
- 2003 ▶ Growth caps
- 2007 ▶ Informed Growth Act “big box retail”
- 2011 ▶ 12-year consistency “shelf life”
- 2019 ▶ ADUs, Aging in place, downtown parking, Sea Level Rise
- 2022 ▶ Climate, fair housing, Service Centers, goals “clean-up”

“Growth Management”

Title 30-A Chapter 187 Planning and Land Use Regulation § 4301-4349-A

- ▶ Definitions § 4301-4302
- ▶ **Growth Management Program**
 - ▶ Statement of Purpose/State Goals § 4312
 - ▶ Local authority for growth management § 4323 (express limitation on home rule)
 - ▶ Responsibility § 4324-4325 (public input, regional coordination)
 - ▶ GM Program elements § 4326
- ▶ Evaluation §4331 (reporting to legislature)
- ▶ Technical and Financial Assistance § 4345-4346
- ▶ Review of Comp Plans §4347
- ▶ Growth-related Capital Investments § 4349-A

“Growth Management”

Title 30-A Chapter 187 Planning and Land Use Regulation
Implementation mechanisms § 4351-4357

- ▶ Land Use Regulation § 4351-4363
- ▶ Informed Growth Act § 4365-4372
- ▶ Subdivision § 4401 - 4408
- ▶ Enforcement § 4451 - 4453
- ▶ Municipal Regulation of Water Levels and Minimum Flows § 4454 - 4457

Growth Management Law / Short Term Rentals - parallels

Push-Pulls:

Regulatory response to significant development pressure
Home rule and state oversight

GM Law

- ▶ Originally enacted 1989 after the “consumption decade”
- ▶ Very high development pressures (Increasing SDs, BPs)

STR Regulations (new ordinances all over the state)

- ▶ AirBnB, VRBO, etc. explosion
- ▶ in-migration, teleworking (COVID, climate migration)
- ▶ Several LDs last year (failed)
- ▶ 2022 - express inclusion in LD2003 to allow municipal regulation of STRs
- ▶ this Commission

GM Law / STRs - parallels

Push-Pulls:

Regulatory response to significant development pressures

Private property vs. community needs/rights

Home rule and state oversight

GM Law (1989) Title 30-A Chapter 187 Planning and Land Use Regulation

- ▶ §4351. Home rule limitations. This subchapter provides express limitations on municipal home rule authority

STRs - local regulations (at least 11 egs in ME)

- ▶ limitations/restrictions on unhosted rentals, total # non-occupied rentals, # a property owner can register in one year, # of unhosted days in one year, gatherings; licensing requirements (local emergency contact, fire codes, parking, etc.); registries

Short Term Rental Regulation - existing

Authorized by:

- ▶ Title 30-A Chapter 141 - § 3001 Ordinance Power

Any municipality, by the adoption, amendment or repeal of ordinances or bylaws, may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law or charter.

- ▶ Title 30-A Chapter 183 - Economic Regulation

- ▶ SubChapter 3: Innkeepers, victualers & lodging houses

- ▶ 3801 - Definitions 1. Innkeeper. "Innkeeper" means a person who keeps an inn, hotel or motel to provide lodging to travelers and others for compensation and who maintains the sleeping accommodations. An innkeeper is not a landlord pursuant to the landlord and tenant laws as provided in [Title 14](#).

- ▶ 3811 - License Required 1. Lodging houses; licenses. The municipal officers may enact ordinances requiring lodging houses to be licensed. These licenses may be issued by the licensing board under [section 3812](#) and are subject to the same expiration dates provided in that section.

Short Term Rental Regulation - NEW (LD 2003)

Title 30-A Chapter 187 - §4364-C - Municipal role in statewide housing production goals

2. **Municipalities may regulate short-term rentals.** A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.

20-C. Transient rental platform. "Transient rental platform" means an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.

GM Law / STRs - parallels

Push-Pulls:

Affordable housing - need, means to achieve

Private property vs. community needs/rights

Home rule and state oversight

Affordable housing in the 1960s - 1980s was:

- ▶ mobile/modular homes
- ▶ Subsidized construction/rental
 - ▶ New complexes (elderly, multi-family, duplexing)
 - ▶ conversion of old schools; institutions
- ▶ Stigmatized then as now
 - ▶ changed nomenclature: "workforce housing" or housing for teachers, nurses, police and firefighters
- ▶ Significant decline in federal financial assistance for housing starting in 1980s
- ▶ Increasingly insufficient to meet the need

GM Law / STRs - parallels

Push-Pulls:

Affordable housing - need, means to achieve

Private property vs. community needs/rights

Powerful market forces

Affordable housing 40 years later is

- ▶ All that it was in the past, AND
- ▶ For property owners - a new market (STRs) that offers:
 - ▶ Income to age in place
 - ▶ Income for retirement, mortgage, other debt, health care
 - ▶ Conversion/use of outdated housing stock
 - ▶ feasible investment (long-term rental down / STR up)

GM Law / STRs - parallels

Push-Pulls:

Affordable housing - need, means to achieve

Private property vs. community needs/rights

Powerful market forces

Affordable housing 40 years later is also

- ▶ Vastly insufficient to meet the need
- ▶ A new market (STRs) that reduces the availability further:
 - ▶ STR income often exceeds long-term rentals income
 - ▶ Driving prices for long-term rentals even higher (supply & demand)
- ▶ Financialization of global housing market

GM Law / STRs - parallels

Push-Pulls:

Affordable housing - need, means to achieve

Private property vs. community needs/rights

STRs offer private property owners:

- ▶ Significant advantages in income, flexibility, investment, affordability, aging in place

STRs can have negative community impacts:

- ▶ insufficient parking, excessive trash generation, noise (partying), traffic, occupancy that exceeds septic design, change in neighborhood character, loss of long-term rental units, increase in residential density

GM Law / STRs - parallels

Push-Pulls:

Home rule and state oversight

Complex and controversial

GM Law (1989)

- ▶ REQUIRED municipalities to prepare Comp Plans; address 10 State Goals; designate Growth /Rural areas

GM Law (1991)

- ▶ Repealed entirely; reinstated given the constitutional need to base zoning on public policy as expressed in a Comprehensive Plan

GM Law / STRs - parallels

Push-Pulls:

Home rule and state oversight

Land use is local; most everything else is regional

Powerful market forces

GM Law (1999-2001): Several measures to give local Comp Plans more “teeth” and address costs of development sprawl

- ▶ Growth-related capital investments targeted to growth areas § 4349-A
- ▶ Req'd inclusion of Capital investment plan
- ▶ Req'd Timetables for implementation

GM Law / STRs - parallels

Push-Pulls:

Home rule and state oversight

Regulatory response to significant development pressures

Powerful market forces

GM Law (2003): Rate of Growth Ordinances § 4360 “Growth caps”

- ▶ Sets limits on # of permits in growth and rural areas
- ▶ Affordable housing provision
- ▶ Must recalculate every 3 years

STR ordinances limits

- ▶ Total, # in one year, owner-occupied or # of owner-occupied

GM Law / STRs - parallels

Push-Pulls:

- Land use is local; most everything else is regional
- Powerful market forces

GM Law (2007): Informed Growth Act § 4365-4372 “big box retail”

- Municipalities can require a “comprehensive economic impact area” study when large retail is proposed

STR regulation?

- Moratoria/limits unless justified by market analysis

GM Law / STRs - parallels

Push-Pulls:

- Land use is local; most everything else is regional
- Political pendulum shift

GM Law (2011): substantial rulemaking intended to streamline CP review process

- Focus on future land use plan
- Checklist for review of Comp Plans
- 12-year “shelf life” for consistency
- Significant loss of state staff and state/regional/municipal resources
- Erosion of state agency implementation of growth-related capital investments

STRs

- No resources to provide market research or model ordinances

GM Law / STRs - parallels

Push-Pulls:

- Land use is local; most everything else is regional
- Affordable housing - need, means to achieve

GM Law (2019): downtowns, aging in place, sea level rise

- Accessory dwelling units
- Downtown parking; upper floor re-use
- Housing to age in place; create age-friendly communities
- Plan for the effects of sea level rise on infrastructure

STR - spectrum of regulatory options - increasing regulatory burden/additive with each approach

- Registration - definitions, fees, limits/caps, penalties, data
- Licensing/Permitting - standards, application review, inspections
- Use regulation - location/zone, spacing, clustering, intensity

GM Law / STRs - parallels

Push-Pulls:

- Land use is local; most everything else is regional
- Affordable housing - need, means to achieve

GM Law (2022): various

- Fair housing provision linked to economic equity in goals
- Implement *Maine Wont' Wait* - 4 Year Plan for Climate Action
- Service Center Analysis - every 5 vs. every 10 years
- Goals and guidance “clean-up”

STR: present

- Models needed; community engagement essential; definitions critical



Questions? Additional research?

Judy East, Bureau Director
Resource Information and Land Use Planning
Department of Agriculture, Conservation and Forestry
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APPENDIX E

**Overview of housing issues by Director Dan Brennan, Maine State
Housing Authority**

Housing in Maine: An Overview
By Daniel Brennan, MaineHousing Director
September 13, 2022
Commission to Increase Housing Opportunities by
Studying Land Use Restrictions and Short-term rentals

PANDEMIC & FALLOUT

The COVID-19 pandemic exposed and amplified the impacts of unequal access to decent, affordable housing. For households with secure employment and good-quality housing, their homes provided a safe haven from the pandemic. However, for thousands of households, they became housing insecure due to loss of income or other COVID-19 related impacts and have struggled to regain normalcy in the face of current economic factors and tight and competitive local housing markets.

These disparities have existed and now persist as the economy and society have returned to a sense of normalcy. Many lower-income households have been slow to regain their financial footing and continue to face possible eviction or foreclosure (Harvard Center for Housing Policy, adjusted for Maine). Current economic pressures, specifically inflation and a tight housing market continue to place pressures on low and moderate income Maine families seeking to find either an affordable rental or home to buy.

SLOW TO NO GROWTH

Maine is largely rural, sparsely populated, with modestly sized urban or service centers. Maine's population grew 2 percent between the 2010 and 2020 Censuses; slower than New England's four percent and the U.S. at 12 percent. Nearly all of the growth Maine experienced was in the coastal and southern counties and the more rural counties had a decline in their population.

The scale of community in Maine, historically, influences our vision of community in the future. Maine is largely a collection of small towns, even our urban centers are small compared to other places. This sense of scale affects our development decisions.

The fastest growing age cohort are those over 65, and older adults will likely comprise 45% of the population by 2028 (Maine State Economist).

SMALLER HOUSEHOLD SIZE

Per the US Census:

- Slow continued shift toward non-family, small family households. Maine is third lowest in average household size and second lowest among owned units in the U.S.

- Higher than average number of homes occupied by older adults partially explains Maine's small overall household size of 2.3. The average household size for owned homes is 2.4 and 1.9 for rented units. There was a slight decrease in the size of renter households, possibly a sign of housing preferences during the pandemic of non-family households.

Smaller households and the preference for smaller housing is consumptive of land using traditional development patterns. However, smaller units offer opportunities to increase density more efficiently.

HOMEOWNERS & RENTERS

- 73% (414,939) of occupied housing units are owned.
- 27% (154,612) are rented.

Prior to the pandemic and a consequence of the Great Recession the percentage of households renting increased. The most recent data from the 2020 decennial Census and American Community Survey show a shift back toward owning. There remains a huge disparity between white and black homeownership rates – not acceptable!

COVID-19 has affected housing preference with a sharp increase in home buying. It is still not clear if this is a temporary shift or a permanent trend. Median home and rental prices increased during the pandemic and continue to do so in Maine. There are indications in other markets nationally of a slowdown in price appreciation not yet experienced in Maine. Availability of affordable rental and owned units are declining as are vacancy rates. Tight inventories of both are increasing prices and cost burden. More Mainers will be cost burdened unless the cost and supply of housing can be addressed.

AFFORDABILITY

Affordability and the cost of housing is increasingly burdening Maine residents:

- Maine's poverty rate has dropped to 11%; income has not kept pace with the cost of housing.
- 24% of households earn 50% or less of area median income.
- Renter median income \$34,018 vs \$71,717 for homeowners: explains the greater need for rental housing assistance. Last reported to this commission in August 2021 renter vs. homeowner income was \$29,350 and \$64,679 respectively.
- 39.3% of homeowners without a mortgage were cost burdened, paying in excess of 30% of income on housing.
- A larger share of older adults own their homes, have lower incomes, and a higher rate of need likely to increase as this segment of the population grows.

HOMEOWNERSHIP AFFORDABILITY

The return to homeownership has been gradual as low interest rates and a low supply of homes stimulated purchasing. Maine's homeownership rate increased slightly in 2020 Census data.

The average house price in Maine is unaffordable to the average income household in all Maine counties except Aroostook.

Increased competition of homes due to persistent low inventory is pricing many first time homebuyers out of the market. This was exacerbated during the height of the pandemic when interest rates were lower and the pressure to secure housing was increased.

MaineHousing saw a slight decline in our First Home Loan program reflective of the tightening market and higher purchase prices. Whereas in 2022 the program is out pacing 2020 and 2021 and recently the program had its largest mortgage purchase in three years.

The supply of existing homes for sale continues to be below average. The persistent low inventory is contributing to double digit increases in home prices. An expanded supply of for-sale homes would help to slow the continued double digit rise in house prices, but new construction also has to pick up substantially to keep homeownership relatively affordable.

RENTER AFFORDABILITY

HUD's Fair Market Rent for a 2-bedroom is unaffordable for the average renter household in all areas of Maine.

- 41.5% of renters are cost-burdened, paying more than 30% of their income on housing. Low income renters are of course hit hardest by cost burden.
- Approximately 39,716 renter households are extremely low-income (at or below 30% Area Median Income).
- Extremely low-income renters paying over 50% of their income on housing comprise 16% of all renters.
- 45% of all renter households are below 50% Area Median Income.
- Small family renter household comprise the largest share of extremely low-income households.
- 54% of extremely low-income renters have substandard housing (defined as lacking complete plumbing or kitchen facilities).
- Small single parent and older adult renters face the greatest housing challenges and greatest need. Nearly 15% of households with at least one person over 75 have extremely low incomes. 36% of households with one or more children aged 6 or under have extremely low incomes or low incomes.

The income limits for MaineHousing financed affordable housing for a one person household is up to \$48,300. Entry-level earnings for many professions are below the low-income threshold, including:

- Firefighters: \$31,760
- Elementary school teachers: \$42,710
- Construction and extraction occupations: \$35,010
- Farming, fishing, and forestry occupations: \$30,440

HOUSING QUALITY

Maine has the eighth oldest housing stock. Maine's housing stock consists of 746,793 houses, of which:

- Houses built before 1939 represent 24% (177,985) of the housing stock;
- Houses built between 1940 and 1979 represent 32% (242,691) of the housing stock.

HOUSING PREFERENCE

We are seeing a move toward Maine people preferring smaller, more energy efficient homes. This preference may be reflective of smaller household sizes.

Pre-pandemic: Maine people showed a preference for living near urban areas, coastal counties, and the I-95 corridor. Most population growth between 2010 to 2020 occurred in southern and coastal counties.

Post-pandemic: Access to broadband and more accepting views on telecommuting means that where one lives may not be as strong a factor. However, how COVID influences settlement patterns remains to be seen. Certain impacts of the pandemic on housing markets are potentially temporary – most notably, the drop in high-end urban rental demand. Indeed, early signs suggest that the reopening of offices, universities, restaurants, and other amenities is already bringing renter households back to city centers.

However, the growing demand for suburban and exurban living may be a more enduring shift, particularly if working from home becomes common practice. If freed from the requirement to commute every day, many more households (including those from out of state) will seek out lower cost housing away from employment centers.

SHORT-TERM RENTALS

MaineHousing has been interested in the impact of short-term rentals on the housing market, but have lacked the data to better understand the issue. Recently we signed an agreement with AirDNA a leading organization on short-term rental data to acquire such data for Maine. As we begin to analyze the data we will share our findings with the Commission as to the prevalence and scale of short-term rentals throughout Maine.

MAINEHOUSING'S ROLE IN ADDRESSING AFFORDABILITY

Through our programs MaineHousing helps families afford, heat and maintain their home. We might be best known for our First Home Loan program that helps first time homebuyers afford their home, helping an estimated 1,000 Maine families per year. We are also known for financing affordable multifamily rental housing developments, with over 900 units currently under construction.

Existing Multifamily Housing and Rental Assistance:

- USDA Rural Development: 331 properties / 7,243 units
- MaineHousing Development: 767 properties / 20,640 units
- HUD properties: 132 properties 5,462 units (includes 4,118 public housing units)
- Housing Choice Vouchers (HCV): 12,000+ households per month
- First Home Loans: 725 home purchases (in 2021) 576 to date in 2022

APPENDIX F

**Overview of housing issues by Director Laura Mitchell, Maine
Affordable Housing Coalition**



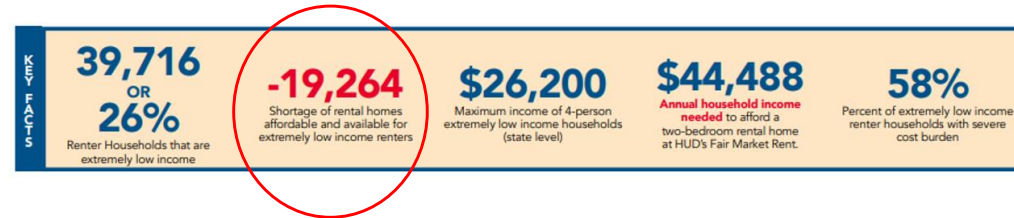
MAINE AFFORDABLE HOUSING COALITION

2022 Maine Housing Profile for Extremely Low Income Households (30% AMI)

The Maine Housing Crisis & Potential Solutions

Presented to the Commission to Increase Housing Opportunities by Studying Land Use Regulations and Short-term Rentals
September 13, 2022

Laura Mitchell, Executive Director, Maine Affordable Housing Coalition
lmitchell@mainehousingcoalition.org

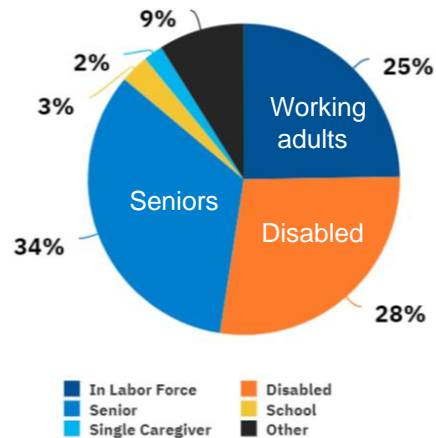


Any removal of permanent housing units or erosion of affordability further exacerbates our crisis.



Source: National Low Income Housing Coalition, The Gap Maine Profile, 2022

Who are extremely low income renters?



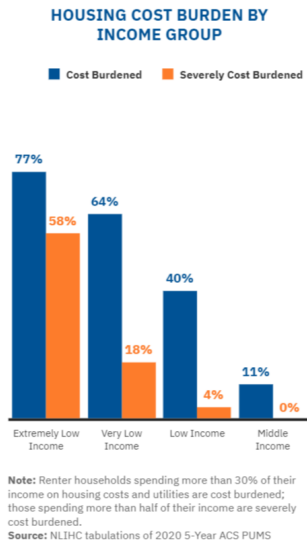
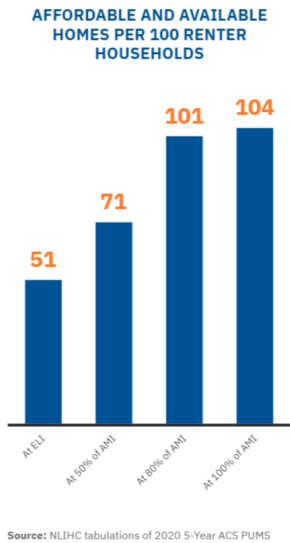
Note: Mutually exclusive categories applied in the following order: senior, disabled, in labor force, enrolled in school, single adult caregiver of a child under 7 or a person with a disability, and other. At the national level, 15% percent of extremely low income renter households include a single adult caregiver, more than half of whom usually work more than 20 hours per week. Eleven percent of extremely low-income renter households are enrolled in school, 48% of whom usually work more than 20 hours per week.

Source: 2020 5-Year ACS PUMS

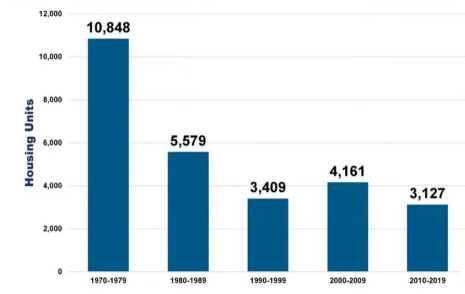
Who does the housing crisis impact in Maine?

All people in Maine deserve a home.

Cost Burdened Means Making Choices Between Housing or Food or Medicine

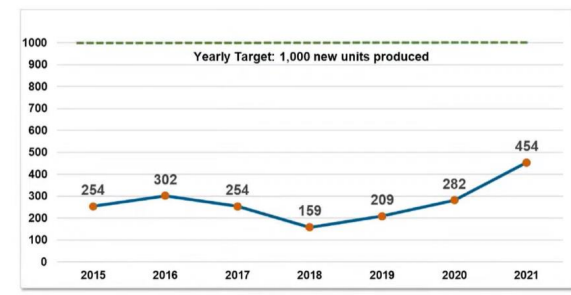


AFFORDABLE HOUSING PRODUCTION BY DECADE



Maine Mismatch Between Supply and Demand

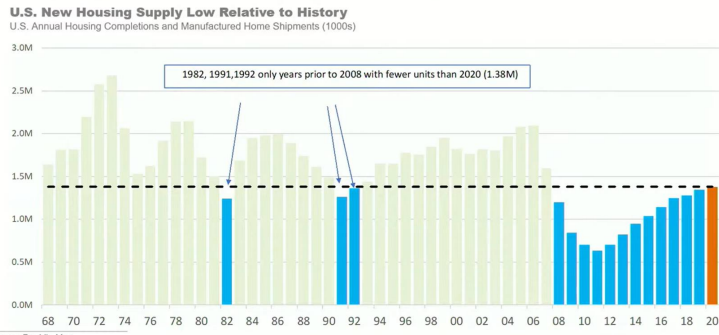
NEW AFFORDABLE HOUSING UNITS IN MAINE



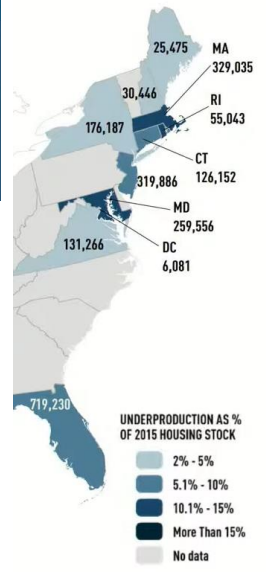
(124) Eggs & Issues: A Conversation on Affordable Housing with Dana Toirman of Avesta Housing - YouTube
www.youtube.com/watch?v=KRBaFTQOIo

National Mismatch As Well

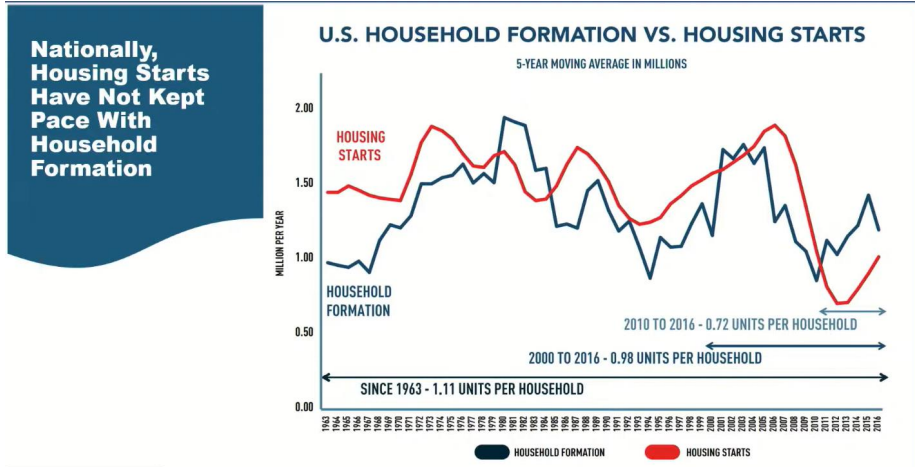
Longest Economic Expansion in History Produced Fewest Units on Record



From 2000 to 2015, the U.S. Fell 7.3 Million Homes Short of Meeting Housing Needs

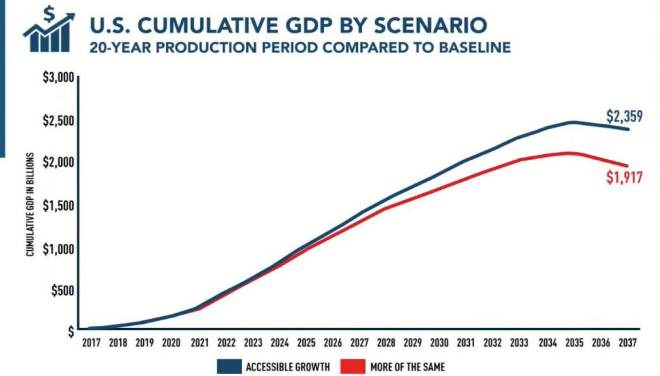


If We Built the Missing 7.3 Million Homes



Bipartisan Policy Center and J. Ronald Terwilliger Center for Housing Policy
Mike Kingsella, Up For Growth, 2022: <https://www.youtube.com/watch?v=fI86WcRhpM0>

Solving Housing Underproduction Can Drive Economic Recovery and Growth



Bipartisan Policy Center and J. Ronald Terwilliger Center for Housing Policy
Mike Kingsella, Up For Growth, 2022: <https://www.youtube.com/watch?v=fI86WcRhpM0>

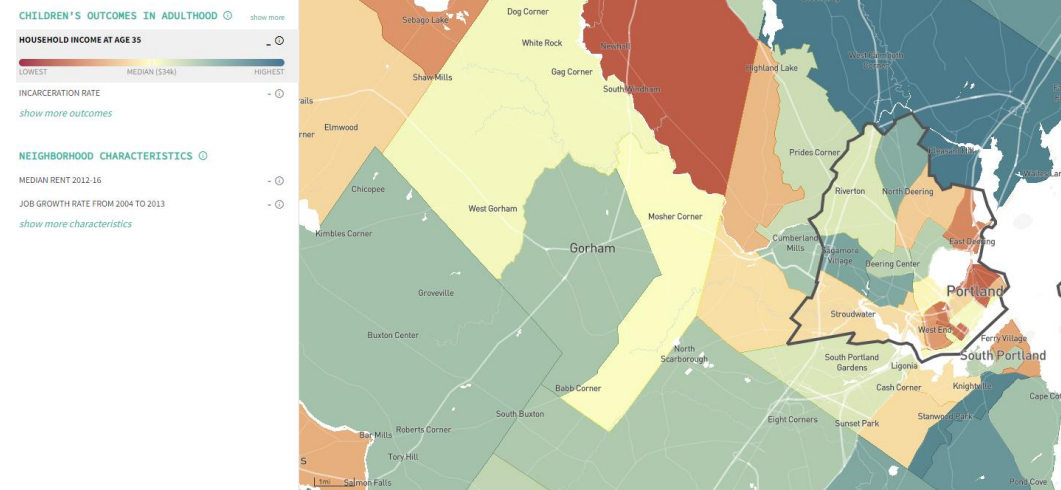
How Zoning and Process Creates the Mismatch

Why Don't We Have Enough of the Right Types of Housing in the Right Places?

Development Stage	City's Role	Impact on Feasibility
Site Investigation & Due Diligence	The city establishes the site's zoning and often provides basic infrastructure. While the city does not directly influence the market analysis, city decisions regarding infrastructure, transportation, schools, and other local considerations influence market conditions.	<ul style="list-style-type: none"> Zoning Codes Open Space Requirements Minimum Parking Ratio Requirements Rezoning Process
Financial Feasibility	The city influences project costs and revenues through a variety of policies that are designed to further public goals. These include affordability requirements, green building and urban design policies, and the permitting and entitlement process.	<ul style="list-style-type: none"> Sustainability Requirements Green Roof Requirements Inclusionary Housing
Financing Structure	Cities often have policies to subsidize development costs, particularly in affordable housing projects and other projects that align with policy priorities.	<ul style="list-style-type: none"> Property Tax Abatement and Exemption Programs Impact Fee Financing
Approvals Process	Cities determine the required steps of an approval process and establish touch-points within the development process for community members to influence and respond to new development.	<ul style="list-style-type: none"> Neighborhood Association Contract Requirements Historic District Review Design Review Permit Approval Timeline Appeal Process CEQA and similar rules
Construction	The city is involved in the building permitting process and ensuring compliance. Furthermore, city policies could impact the lease-up and tenancing of the project.	<ul style="list-style-type: none"> Building Permit Fees Inspection Fees

Source: Up for Growth (2021)

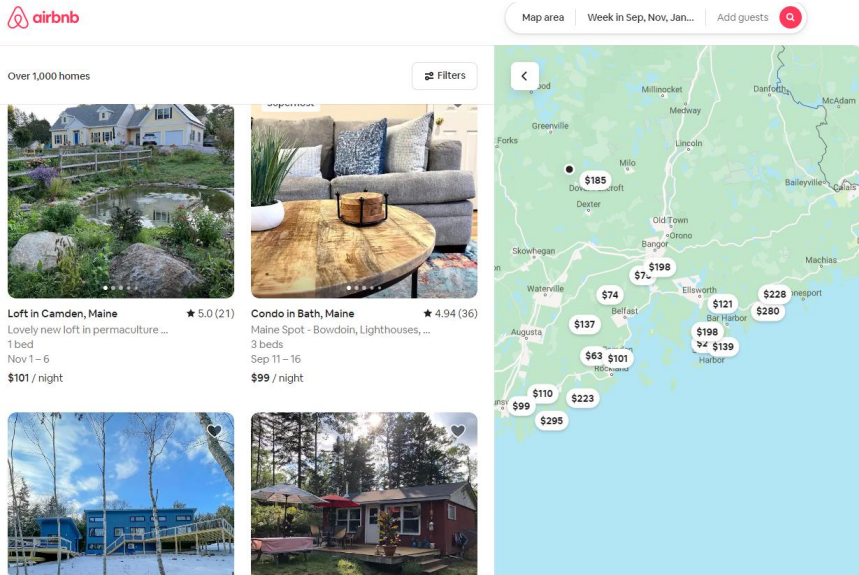
Your Neighborhood, Created by Its Zoning, Has a Lifetime Impact



Source: <https://www.opportunityatlas.org/>

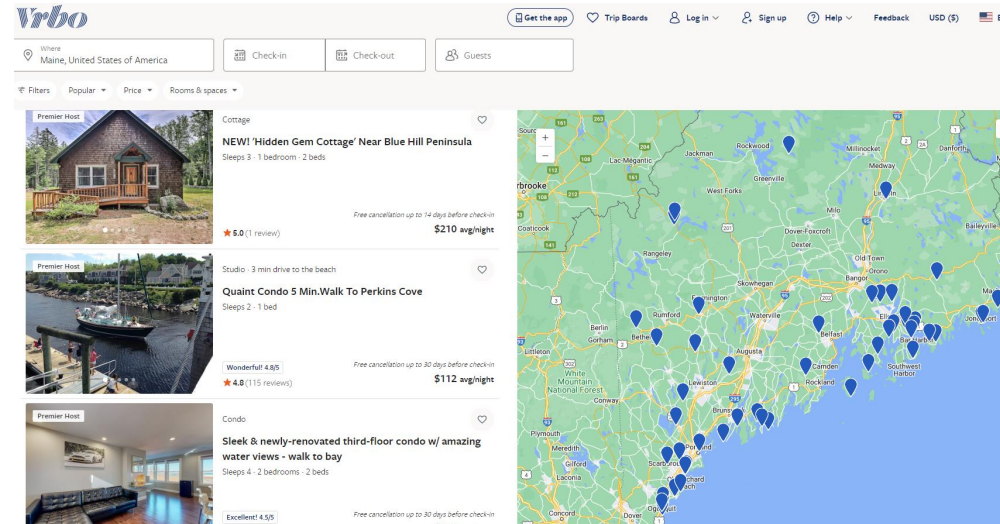
STR Impact - AirBnB

- Over 1,000 homes available for weeklong rentals across several months in Maine



STR Impact - VRBO

- Over 300 homes on VRBO. Only lists entire homes, condos or apartments customers will have to themselves.



STR Rental Impact Growth



STR Academic Research

- Supports concerns about the impact of short-term rentals on housing affordability. ¹
- Three peer reviewed studies from US cities and overall show an **increase in STR units correlates with an increase in rental and homeownership costs.** ²
- Shifts units from residential to commercial hotel supply. ²
- Changes neighborhood nature and don't abide with normal zoning. Guests would otherwise stay in a hotel permitted and sited in a commercial zone. ²
- Residential housing is zoned and built through a wholly different process. ²
- Unlike with a shortage of, say, shoes or oranges, neither the market nor the public sector can swiftly replace the housing units that are removed from the marketplace. ²
- Total supply of housing is not affected by the entry of STR listings....they **decrease the supply of long-term rental units** ³
- In some small towns in Maine that lack lodging, STRs are adding to the housing market and creating a positive mixture of offerings

¹: <https://granicus.com/blog/are-short-term-vacation-rentals-contributing-to-the-housing-crisis/>

²: https://harvardjpr.com/wp-content/uploads/sites/20/2016/02/10_1_10_Lee.pdf
³: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3006832

Cities Taking the Lead on STRs

- These laws are very local in nature and vary from state to state, even town to town.

• Source: <https://www.2ndaddress.com/research/short-term-rental-laws/>

City	Summary	Take Effect	Fine	STR License Fee	Additional Cost
New York	1. Can't rent out entire apartment (hosts must be present) 2. Can't advertise an apartment 3. Up to 2 paying guests	May 2011	\$1,000 - \$7,500 (illegal advertising of apartments)	N/A	1. Sales and use tax 2. Hotel room occupancy tax
San Francisco	1. Must register as a business and as a short-term rental 2. Hosts must be permanent residents 3. Up to 90 nights a year without hosts 4. No income-restricted affordable housing	Feb. 2015	≥ \$484 (per day)	\$250	1. Transient occupancy tax 2. Business personal property tax
Los Angeles	1. Must obtain licenses 2. Must be primary residence 3. Up to 120 days a year	July 2019	≥ \$500 (per day)	\$89	Transient occupancy tax
Washington DC	1. Must obtain license, additional "vacation rental" endorsement for renting out an entire unit 2. Must be primary residence 3. Up to 90 nights a year without hosts	Oct 2019	\$500 - \$6,000 (per violation)	TBD	Transient lodging tax
Chicago	1. Short-term rental platforms must obtain license 2. Hosts with 1 home-share unit register through the rental platform 3. Hosts with ≥ 1 home-share unit must obtain license from city of Chicago 4. Vacation rental must obtain license	March 2017 (host registration)	\$1,500 - \$3,000 (per day)	\$0 - \$250	Hotel accommodation tax
Boston	1. Must obtain license 2. Must be primary residence or an secondary unit at their primary residence 3. No income-restricted units	Jan. 2019	\$100 - \$300 (per day)	\$25 - \$200	Same tax as hotel
Seattle	1. Short-term rental platforms must obtain license 2. Hosts must register as a business and as a short-term rental	Sep. 2019	\$500 - \$1,000	\$75	1. Retail sales tax 2. Lodging tax 3. Business and

STR Management Examples

- Ban year-round listings of units on STR sites – 75 day limit. Hosts of less than two weeks a year don't pay additional STR fees.
- Occupancy tax on any unit that is listed on STR sites for greater than the ~75 day cap
- Have a one-year cool down periods before any formerly subsidized or rent-controlled home can be listed on STR sites.
- Cap the number of units that any individual or business can list on STR sites in a year.
- Cap the number of units in a building that owners/managers can list on STR sites.
- Incentivize developers to build affordable and market-rent housing, by allowing newly-developed building managers and owners to set aside a greater number of units for STRs.
- Grant additional exemptions for developers who set aside newly-constructed units for low-income residents.
- https://harvardjpr.com/wp-content/uploads/sites/20/2016/02/10.1_10_Lee.pdf
- Licenses for units rented for less than 30 consecutive days in Clark County Nevada are for \$300/year and STR tax is on top of that
- <https://www.alltherooms.com/analytics/airbnb-regulations/>

Potential Maine Solutions To Address the Housing Crisis

Drive Revenue to Meet the Demand

- 1. Short term rental tax and licensing fees**
- 2. Vacancy fees or taxes for vacation homes**
 - Motivate owners to develop vacant areas of the parcels, and to either sell or rent unoccupied housing units, while also increasing revenue.
- 3. Housing infrastructure bond**
 - Housing is infrastructure vital for the growth of Maine businesses and our workforce. Maine can't thrive without critical housing infrastructure. Housing is vital to people from all walks of life today, housing is critical infrastructure today.
- 4. Expand the real estate transfer tax/fees for the HOME Fund**
 - Make sure that the HOME Fund is protected and the full 45% goes to the HOME Fund.
- 5. Apply a supplemental real estate document recording fee in towns that do not have a minimum percentage of affordable homes**
 - For decades, exclusionary communities have been successful in thwarting the development of affordable homes. Imposing an additional recording fee in such communities will both incentivize these jurisdictions to permit new affordable homes and raise money to construct the homes.
- 6. Incentivize ADU development with new loan products**
- 7. Make the state historic tax credit permanent**
 - Increase cap on limits for state historic tax credits. Expand it for individuals to use to redevelop residential properties.

Invest in Our Values

1. **Provide state match for towns that will incentivize towns to create Community Land and Housing Trusts.**
2. **Offer a new version of statewide “Land for Maine’s future” with land being assigned for affordable housing development. Add of conservation set asides and prioritize smart growth principles in reuse.**
3. **Community tool kit (with funding incentive)** – Identify Housing Champion Communities. Encourage municipalities to promote the development of workforce housing and “other types of housing necessary for the economic development of the state.” Towns and cities that receive the certification would get preferential access to state resources including discretionary state infrastructure funds. Municipalities would need to adopt policies that promote affordable housing.
4. **Long term statewide planning resources to support housing goal production strategy development and implementation of plans to meet goals and support towns overall**

Reimagine Land Use

- 1) **Residential in commercial zones**
 - Allow new apartment and condominium developments to be built in commercial and mixed-use zones, ideally with at least 20% of the homes affordable to low-income households. Access to appropriately zoned sites is a prerequisite to the development of affordable homes. Because local governments see revenue potential from sales tax growth, they often overzone for commercial uses at the expense of housing. Moreover, e-commerce and the pandemic are changing shopping and office habits forever. Allowing housing in commercial zones opens up appropriate sites for housing and ensures vibrant and productive uses of these properties. The affordable housing requirement ensures that the public captures the increased value of the land associated with allowing residential uses.
- 2) **State Appeals Board for Local Affordable Housing Decisions**
 - Reduces discretion. Legal process is expensive and uncertain. Proven effective in other states including New Hampshire. Further State regulation that supports consistency of development process and a clear path for development of affordable housing in all communities is also needed. **Create clear, consistent development process across towns.** Lots of desire and capital to produce housing. Developers don't have a clear path to take to make it work. Pre development path is a lot of money, and challenging. Will alleviate some lack of planning resources and help volunteer planning/zoning boards.
- 3) **Increase density in high opportunity areas in Maine to fill the missing middle of housing in targeted areas by town centers, commercial strips, transit hubs, or services.**
- 4) **Assign state/public land that is already developed for affordable housing development Remove zoning barriers to housing production**
 - End exclusionary discriminatory zoning by allowing increases in building height and density for mixed-income and affordable housing developments in service center communities. Up zoning should occur in areas whose characteristics are associated with positive outcomes for families and children, and where employment and commuting patterns suggest more housing could shorten commutes.
- 5) **Address the Growth Management Act**
 - Take a broader look at the GMA to streamline its requirements and allow communities to focus on affordable housing.
- 6) **Review State Subdivision Laws**
 - Maine is unusual in that state law generally views creation of multifamily housing as a subdivision. In most states, only the actual subdivision of land is considered a “subdivision” and subject to the requirements of subdivision law. In 2019, legislation exempted developments that are subject to “municipal site plan review” from subdivision review. However, additional changes may be needed to ensure that subdivision law does what it is supposed to – provide access and site planning for actual division of land – but does not unnecessarily impede housing development.

LD2003 Is Paving the Way for Housing Across the State. *What people are saying...*

- *....many of the initiatives we already allowed in our town and have been working to delicately navigate growth in the community without overburdening it.*
- *...in small towns in Maine, the passion to support housing is there, but the first hurdle is zoning. There is a lack of capacity to make the needed changes.*

APPENDIX G

**Presentation: Increasing Affordable Homes for Ownership –
Vermont example, Chris Donnelly, Champlain Housing Trust**



Providing Permanently Affordable Housing in Northwestern Vermont

Chris Donnelly
Director of Community Relations

chris@champlainhousingtrust.org

September 2022

Permanently Affordable Homeownership



Mission

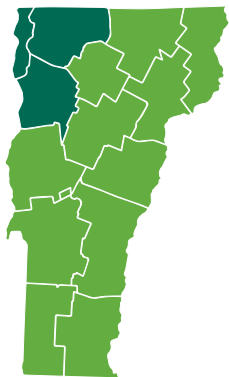
The Champlain Housing Trust is a community land trust that supports the people of northwest Vermont and strengthens their communities through the development and stewardship of permanently affordable homes and related community assets.

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Champlain Housing Trust



Champlain Housing Trust serves the three northwest counties of Vermont

- 2,500 apartments
- 670 Shared Equity homes
- 30 commercial spaces
- Four different loan programs
- \$300M+ community assets
- \$24M operating budget
- 136 staff

3

getahome.org



Housing Opportunity



4

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Roots

First Community Land Trust in Lee County, GA: New Communities, Inc. which fought for years against institutional racism and ended up losing their land to foreclosure. They fought back in the courts and won – more than thirty years later – a settlement and purchased the Cyprus Pond Plantation.



<https://www.arcofjusticefilm.com/>

5

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CHT History

- Founded in 1984 under Burlington's Mayor Bernie Sanders
- Goal of preventing displacement and gentrification of a neighborhood
- Piloted new form of homeownership
- Created model for others, and spurred policy of permanent affordability with public dollars
- Expanded territory and organization in mid-2000s
- Part of work is to spread the model



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getahome.org



“When we moved in I thought to myself, ‘Je suis arrivé.’”

GOALS

- How do we provide access to homeownership and wealth building opportunity to people priced out of the market?
- How do we create lasting affordability so that communities and taxpayers will benefit?



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Shared Equity Homeownership

In it's simplest form, Shared Equity (or sometimes called "Shared Appreciation") homeownership establishes a contractual relationship between a buyer and a Community Land Trust or other nonprofit steward.

In exchange for reducing the size of the mortgage buyers need to borrow, they agree to share a portion of any increased market value when they decide to sell.

This "shared equity" balances the interest in wealth building for homeowners with the interest in an ongoing stock of affordable homes for communities.



Shared Equity Homeownership

STEP ONE – Becoming mortgage ready

Aspiring homeowners take homebuyer education, and must become mortgage ready – meaning they can go to a bank or credit union and take out a loan.

STEP TWO – Finding a home

- Existing shared equity home up for sale
- Habitat for Humanity chapters
- New home being developed by non profit
- Acquisition – Rehab programs
- "Buyer Driven" program
- Conversion of rentals



Shared Equity Homeownership

STEP THREE – Preparing to buy

Prospective buyers hire own lawyer, home inspector and get their own mortgage through a bank or credit union.

STEP FOUR - Closing

The local nonprofit stewards a subsidy that's attached to the home, and manages the sale.

Buyer secures their own mortgage, and covers their closing costs – and moves in.



Shared Equity Homeownership

RIGHTS/RESPONSIBILITIES OF OWNER

- Pays Mortgage, Insurance and Property Taxes
- Pays any condo fees, lease/membership fee
- Maintains the property
- Can leave property to another in their Will
- Must notify local nonprofit in event of the decision to sell
- Agrees to a resale formula that preserves affordability



Shared Equity Program Purchase and Resale

	Original Purchase
Appraised Value	\$300,000
Original Subsidy	(\$80,000)
Buyer's Mortgage	\$220,000



Shared Equity Program Purchase and Resale

	Original Purchase	Second Sale
Appraised Value	\$300,000	\$340,000
Original Subsidy	(\$80,000)	
Buyer's Mortgage	\$220,000	



Shared Equity Program Purchase and Resale

	Original Purchase	Second Sale
Appraised Value	\$300,000	\$340,000
Original Subsidy	(\$80,000)	(\$80,000)
Buyer's Mortgage	\$220,000	



Shared Equity Program Purchase and Resale

	Original Purchase	Second Sale
Appraised Value	\$300,000	\$340,000
Original Subsidy	(\$80,000)	(\$80,000)
75% share of appreciation		(\$30,000)
Buyer's Mortgage	\$220,000	

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Shared Equity Program Purchase and Resale

	Original Purchase	Second Sale
Appraised Value	\$300,000	\$340,000
Original Subsidy	(\$80,000)	(\$80,000)
75% share of appreciation		(\$30,000)
Buyer's Mortgage	\$220,000	\$230,000

Original owner receives the principal they paid down on their mortgage, plus 25% of the market appreciation – in this example \$10,000. If this owner had a 6% interest rate and made regular payments, they'd have paid about \$20,000 in principal in seven years.

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Shared Equity Program Purchase and Resale

	Original Purchase	Second Sale	Third Sale
Appraised Value	\$300,000	\$340,000	\$440,000
Original Subsidy	(\$80,000)	(\$80,000)	(\$80,000)
75% share of appreciation		(\$30,000)	(\$75,000)
Buyer's Mortgage	\$220,000	\$230,000	\$285,000

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"I love a front door and a back door. I like to go out. I have flowers in my yard and a home that's accessible."

CHT Shared Equity Buyers

- 37% of households have children
- 25% buyers in the last five years were Black, Indigenous, or people of color
- Top five employment sectors:
 - Teacher/Aide
 - Health Care
 - Administrative
 - Manufacturing
 - Customer Service



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CHT's Shared Equity Program By the Numbers

- Average buyer's income at time of purchase: 67% AMI
- Median Length of Ownership: 7 years
- Wealth built: \$21,500
- After selling, 81% bought another home
- Initial subsidy in 614 homes --> 1,123 owners (*from 2019*)
- Three homes lost to foreclosure over 38 years



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Butternut Grove Condominiums Winooski, Vermont



Building a Stock of Housing

- Vermont Housing & Conservation Board
- State Affordable Housing Tax Credit
- Municipal Housing Trust Funds
- Inclusionary Zoning
- Self-help/Habitat for Humanity chapters
- Donations of land
- Bargain Sales
- Conversions of apartments
- "Buyer Driven" Assistance
- New Markets Tax Credits
- "Missing Middle" Homeownership Pilot
- NeighborWorks® America
- Philanthropy / Estate planning
- Other Federal Funds

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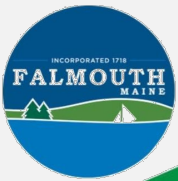
Chris Donnelly
Champlain Housing Trust
chris@champlainhousingtrust.org

www.getahome.org
www.getahome.org/tacht/



APPENDIX H

**Presentation: Local Regulation of short-term rentals – Town of
Falmouth example, Maggie Fleming, Town of Falmouth**

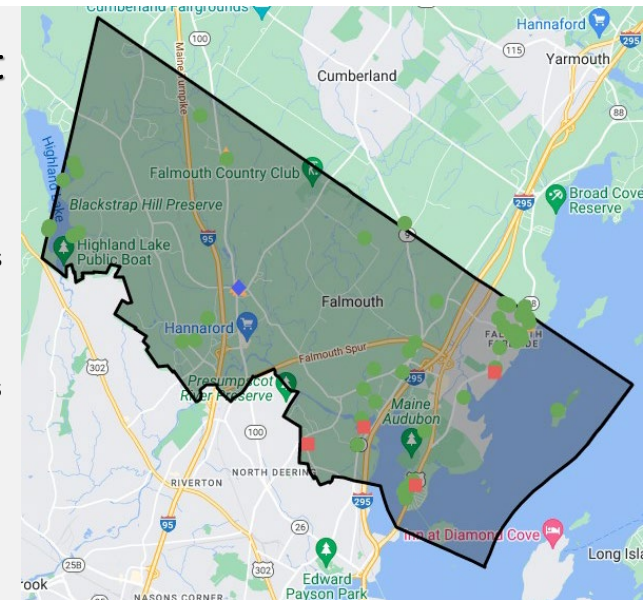


Falmouth, Maine Short-term Rental Ordinance and Registration Program

Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals
September 23, 2022

Falmouth STR Market

- Falmouth contracted with Granicus Host Compliance in Fall 2021 to assist with compliance monitoring
- As of 9/21/22, Host Compliance has identified 70 total active rental units in Falmouth
- There has been a drop in active rental units during the pandemic
 - November 2019-122 rental units
 - October 2020- 88 unique rental units



Ordinance Development Process:

- The Town Council Ordinance Committee began discussing short-term rentals in 2018 after residents contacted councilors with concerns.
- Town staff conducted research on the short-term rental landscape in Falmouth, including initially contacting Host Compliance, as well as on Maine municipalities and select national municipalities' short-term rental ordinances.
- A public forum was held in March 2020 with 41 attendees.

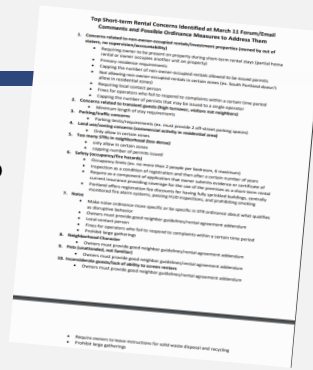


Top STR Pros and Cons Identified at Public Forum

PROs	CONs
Short-term rentals are a revenue source for owners (help owners afford their mortgages)	Concerns related to non-owner-occupied rentals/investment properties (owned by out of staters, no supervision/accountability)
Short-term rentals provide an affordable local lodging option-Falmouth only has one motel	Concerns related to transient guests (high turnover, visitors not neighbors)
Having short-term rentals in town benefits local businesses	Parking/traffic concerns
Town exposure to potential visitors/new residents	Land use/zoning concerns (commercial activity in residential areas)
Short-term rentals positively impact property values	Too many STRs in the same neighborhood
Most short-term rental operators are responsible and properly screen their guests.	Safety (occupancy/fire hazards)
	Noise
	Neighborhood Character
	Pets (unattended, not familiar)
	Inconsiderate guests

Ordinance Writing Considerations

- Does Falmouth have a short-term rental problem?
- Wanted to facilitate data collection to better understand who is renting, where are they renting, and rental patterns
- Did not want to restrict people from renting their properties
- Enforcement
 - Staff capacity to monitor and enforce
 - Budgetary implications (staff time, Host Compliance (\$12,888.50, based on number of units), legal fees)



Purpose: to monitor the impact on residential neighborhoods by the operation of short-term rentals within the Town and to provide a registration program that enables the Town to monitor and track short-term rentals within its borders.

- Requirements:**
1. Ordinance established registration program-No person shall advertise, operate, or rent a short-term rental without first registering the short-term rental unit with the Town. Owners must renew their registrations annually on or before January 1.
 2. \$300 Registration Fee
 3. The owner must provide and emergency contact person who is able to respond within an hour to complaints regarding the condition, safety, or operation of the short-term rental, or the conduct of guests.
 4. The owner must provide a certificate of insurance that expressly acknowledge that the property may be used for short-term rental business activity and evidencing (a) property insurance and (b) general liability insurance appropriate to cover the rental use in the aggregate of not less than \$1 million or proof that the owner conducts rental transactions through a hosting platform that provides equal or greater coverage.

Enforcement/Penalties:**

- Operating and/or advertising the rental of a short-term rental without a valid registration- per day fine of \$1,000 for first offense, additional per day fine of \$1,500 for each additional offense.
- For any other violation of the ordinance, the violator may be penalized with a fine of \$500 per day for each such violation.

**The Town has been using a three-strike warning letter system and has not enforced fines for owners who have registered or removed their listings before receiving a third letter.

Implementation

- Onboarding with Host Compliance took several weeks
- Online registration form maintained by Host Compliance
- Announced that registration was open by mailing letters to all identified operators and through the Town's bi-weekly newsletter, *The Falmouth Focus*, email alerts, and social media
- As registration period was new, offered a grace period for 2022 registrations-extended January 1 deadline until February 18
- Send warning letter through Host Compliance as new units are identified

How It's Going One Year In

- 60 registered units
- Staff have been able to work with all identified owners to either register or remove their listings before the third warning letter
- Staff have received very few complaints
- Initially planned to use Host Compliance's 24/7 Hotline but decided not to due to concerns about staff capacity to manage
- Registration Data (Registrant Reported):
 - 22-partial home rental, 38-whole home rental
 - 46-single-family detached dwelling units, 8-accessory dwelling units, 6-two-family or multi-family dwelling units
 - 23 units are owners' primary residences, 37 units are not owners' primary residences
 - 4 owners own multiple short-term rental units in town





Thank you!

Marguerite Fleming
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APPENDIX I

**Summary of municipal officials panel on short-term rentals and
assessing**

Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and
Short-term Rentals
Meeting #3 – Municipal Issues Panel¹
October 3, 2022

Nate Rudy, Town Manager, Gray

Change of use and increased STR development has an impact on roads and water quality on traditional camp roads surrounding Sebago Lake that are part of the watershed network when not lakefront. A blanket restriction on local STR regulation or pressure for increased development at the State level would work against their ability to sensitively balance municipal obligations to residents and property owners and often state required obligations to enact resource protection ordinances protecting public trust rights, and the drinking water source for the Portland region.

Kerry Leichtman, Town Assessor, Rockport

Assessment of STR investment properties purchased in the past few years and the impact on adjacent residential properties. STRs cannot be assessed differently under existing allowable categories, which may lead to inflating the assessed value of residential homes which in turn, may impact tax rates on residential properties. Maine Revenue Services provides the framework for the calculation of value for apartments, lodgings, etc. Defining these investments based on their use would allow assessors to remove their often-inflated sale price and investment values from the similar residential property calculations next door.

Kevin Sutherland, Town Manager, Bar Harbor

Bar Harbor enacted a 9% cap on allowable STR's based on a percentage of available property in town. When registration went into effect 15.5% of the residential dwellings were STR's. This approach, over time, will reduce STR's in Bar Harbor, but has pushed the "housing as an investment vehicle" (REIT) market into surrounding, often more affordable communities impacting their residential properties. The impact of the current market that views housing as an investment vehicle places pressure on available workforce and year-round housing as well as municipal resources and services and is very different than traditional seasonal rentals. Kevin will share some lessons learned and the benefits of implementing a cap.

Werner Gilliam, Director of Planning and Development, Kennebunkport

Kennebunkport recently adopted a STR license cap, which goes into effect January 1, 2023; the total number of licenses issued in each calendar year is set annually by the board of selectman based on a formula based in part upon a percentage of the total number of residential dwelling units in the Town of Kennebunkport. Seventy-three (73) percent of Kennebunkport's short-term rental owners live elsewhere.

Rebecca Graham, Maine Municipal Association

There are some areas where municipalities have extremely limited authority to regulate moorings on waters of the State. The multi-jurisdictional reality of these waters and rural nature of these small towns makes STR regulation of houseboats a challenge without State tools.

Registered vessels are considered water-dependent and cannot be regulated by municipalities as structures, though they may be used as a residence in some instances and may anchor anywhere not

¹ Summary of panelist issue areas provided by Maine Municipal Association.

in the navigational channel or approved mooring. Floating homes (not be confused with houseboats) have been determined to be non-water dependent uses, require enormous lifts to enforce and adopt ordinances to protect the public trust rights on water. They are often registered as boats by the State placing them in the registered vessel category.

The mooring laws in Title 38 (for tidal waters) are an exception to the general authority of the State over these submerged lands. The State submerged land program has regulations as to what things need a permit from them, but they specifically exempt “moorings” and “water dependent uses which in total occupy less than 500 square feet of submerged land” from their permit requirements. (See 01-670 CMR chapter 53, Submerged Lands Rules §1.5.) Given the extent of State control over submerged lands and great pond surface waters, a model ordinance and permit program under submerged land rules would be helpful in delineating where new transient uses such as these can be assessed and managed or prohibited.

Example: <https://thefloatingnomad.com/>

Recent Legislation related to Houseboats²

130th Maine Legislature – LD 626 – An Act To Clarify Temporary Mooring Privileges for Moorings on Inland Waters (Agriculture, Conservation and Forestry (ACF) Committee **Resolve 2021, chapter 147 – Resolve, To Direct the Department of Agriculture, Conservation and Forestry To Develop Recommendations Regarding Nonwater-dependent Floating Structures on Maine’s Waters**

- Various agencies have regulatory authority over watercraft, docks and floats, waterway markers, and submerged lands.
- Because LD 626 touches on several regulatory and statutory elements, both DACF and DIFW recommend a resolve directing DACF to lead an interagency group, alongside DIFW and with input from MMA and the Maine Harbor Masters Association. Submit recommendations, including suggested statutory changes, to the 131st Second Regular Session (January 2024).

² Summary of recent legislation related to houseboats provided by OPLA.

APPENDIX J

**Presentation: Labor standards for workers that build affordable housing and registered apprenticeship opportunities,
Commissioner Jason J. Shedlock**

Labor Standards & Affordable Housing

Presentation to Statewide Housing Commission

Jason J. Shedlock

Laborers' International Union

Maine State Building & Construction Trades Council

10.17.22 - Printed In-House with Union Labor

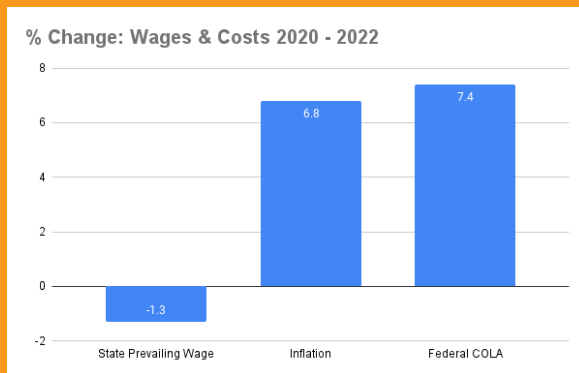
Labor Standards & Affordable Housing in Maine

The Challenge:

A focus on the supply-side of affordable housing is critical and necessary. But we are missing a real opportunity to enact a road-tested solution to address the fundamental causes of our affordable housing shortage from multiple angles while at the same time addressing medium and long-term needs.

Labor Standards & Affordable Housing in Maine

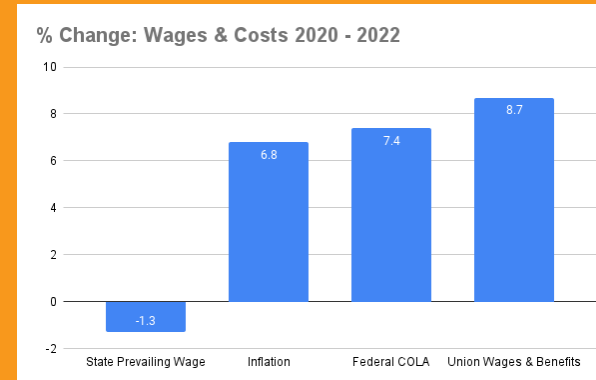
Construction Wage Stagnation in Maine



State Prevailing Wage
Construction Laborer
B2 Classification
Statewide Rate

Labor Standards & Affordable Housing in Maine

Collectively Bargained Wages Have Kept Pace

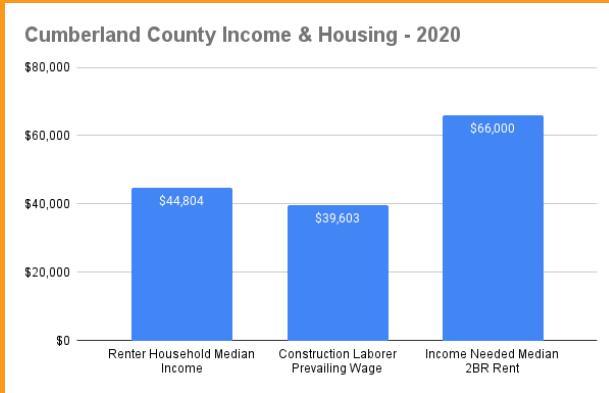


State Prevailing Wage
Construction Laborer
B2 Classification
Statewide Rate

Union Wage Rate
Collectively Bargained Rate
Laborers' International Union,
Local 327

Labor Standards & Affordable Housing in Maine

Those Who Build Our Housing Cannot Afford to Live in It



*Wages for Construction Laborer
B2 Classification
Cumberland County Rate
2,080-hour year

Labor Standards & Affordable Housing in Maine

Maine's Aging (Construction) Workforce is Real

- Maine: Oldest median age for construction worker in the US (45 years)
- 40% of US construction workers to retire by 2023
 - Maine has oldest median age in US (45)
 - Nearly 1/3 of Mainers are over 60
 - Average retirement age for a US construction worker is 61

Labor Standards & Affordable Housing in Maine

How can we address the construction workforce shortage?

"Apprentices in Maine who completed their program in the last two years, despite the COVID-19 pandemic, increased their wages, on average, by nearly 40 percent, and 94 percent of apprentices continue their employment with their apprenticeship sponsoring business."

(Jan 2022 Press Release "Mills Administration Announces \$12 Million to Expand Apprenticeship Opportunities")

Labor Standards & Affordable Housing in Maine

A three-pronged approach when it comes to addressing Maine's affordable housing crisis can change the game.

- Incentivize living wages with family-sustaining benefits
- Mandate registered apprenticeship requirements
- Encourage and reward projects committed to workforce and community benefits

Labor Standards & Affordable Housing in Maine

Wages and Benefit Benchmarks in Recent Maine Public Policy

- LD 1282: "An Act To Establish a Green New Deal for Maine"
 - Registered Apprenticeship requirements on energy generation
 - Currently 10%, 17.5% in 2025, 25% in 2027
- LD 336: "An Act To Encourage Research To Support the Maine Offshore Wind Industry"
 - Project Labor Agreement on offshore wind research array
 - Collectively bargained rates and Benefits
 - Community benefits
 - Local, disadvantaged, veteran hire benchmarks

Labor Standards & Affordable Housing in Maine

Wages and Benefit Benchmarks in Maine Public Policy (Cont.)

- LD 1969: "An Act Concerning Equity in Renewable Energy Projects & Workforce Development"
 - Registered Apprenticeship requirements on energy generation projects (2MW +)
 - Wage requirements on all projects \$50k or more with state assistance
 - Establishes a Registered Pre-Apprenticeship structure and requirements
 - Incentivizes the use of Project Labor Agreements (PLAs)

Labor Standards & Affordable Housing in Maine

Wages and Benefit Benchmarks in Maine Public Policy (Cont.)

- LD 1656: "An Act To Promote Energy-efficient Affordable Housing"
 - VIA ARPA: \$20M for Affordable Housing built using a Project Labor Agreement
 - Funding through state's 4% LIHTC Walk-In program
 - High interest: more applications than funding available
 - Slated to fund approximately 2-5 affordable housing projects
 - Workers to earn collectively bargained rate and benefits

Labor Standards & Affordable Housing in Maine

Federal Guidance on Wages and Apprenticeship is Clear

- Federal ARPA Funds
- Bipartisan Infrastructure Law
- Inflation Reduction Act

All incentivize - or require - wage standards and Registered Apprenticeship

Labor Standards & Affordable Housing in Maine

Labor Standards & Affordable Housing in Maine

Labor Standards Can Move the Needle

- Incentivize labor standards in affordable housing policy
 - Allow for increased housing height, density or development
 - Encourage affordable rental housing development with tax incentives
 - Consider non-owner-occupied STR and/or condo conversion fees to fund Maine Housing programs for development of affordable housing with Project Labor Agreements

Labor Standards Can Move the Needle...Without Raising Costs

- Wage standards do not raise housing construction costs
 - ICERES Study (Hinkle & Belman 2020)
- Any wage increases are likely undetectable
 - EPI Study (Mahalia 2008)
 - Average labor costs = ¼ of construction costs
 - A 10% increase in wages = 2.5% of contract costs

Labor Standards & Affordable Housing in Maine

Labor Standards & Affordable Housing in Maine

Labor Standards Can Move the Needle...While Training Maine Future Builders

- Registered Apprenticeships = Higher Wages and a More Diverse Workforce
 - Earn while you learn model eliminates educational debt
 - Programming at no-cost to learner
 - Clearly defined pathway to career advancement and credentialing
 - Proven opportunities and success for traditionally underrepresented populations
 - Women, people of color, justice-involved individuals
 - Pre-Apprenticeship pathway established

Jason J. Shedlock

Regional Organizer, Laborers' New England Region Organizing Fund

President, Maine State Building & Construction Trades Council

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APPENDIX K

Presentation: Debora Keller, Bath Housing

FRAMEWORK FOR ACTION

APPROACH	EXAMPLES
<p>1 Policy & Planning</p> <p><i>Reduce impediments to and/or promote housing development</i></p>	<p><i>Local</i></p> <ul style="list-style-type: none"> Establish ADU Ordinance Update Land Use Codes Local ARPA Fund Use TIF Policies <p><i>Regional</i></p> <ul style="list-style-type: none"> Regional goals for location of new housing developments Transit and land use regulations aligned Engage Employers in creation of new housing County ARPA fund use <p><i>State</i></p> <ul style="list-style-type: none"> ADU Legislation State Funding Opportunities Business tax credit for housing investments
<p>2 Production</p> <p>Creation of new units (single or multi; rental or ownership; AMI targets)</p>	<ul style="list-style-type: none"> High capacity development partners Community will Risk Mitigation Incentives
<p>3 Direct Assistance</p> <p><i>Direct assistance to households</i></p>	<ul style="list-style-type: none"> Property Tax Relief Housing Rehab Programs Security Deposit Assistance Down Payment/Closing Cost Assistance Rental Assistance Housing Efficiency Programs
<p>4 Preservation</p> <p><i>Preventing the loss of existing affordable stock; preventing displacement</i></p>	<ul style="list-style-type: none"> Housing replacement ordinance Address expiring use properties Rights of first refusal Protect from condo conversions

Adapted from *Housing Market Summary, Vision & Best Practices, Recommendations for Policy Development, City of Bath, Maine*. Prepared by Levine Planning Strategies, LLC for Bath Housing Development Corporation, January 2021

APPENDIX L

Overview of short-term rentals from MaineHousing using AirDNA data



October 15 2022

TO: Commission to Increase Housing Opportunities in Maine

FROM: MaineHousing, Communications and Planning Dept.

RE: Short-Term Rental Overview

The following tables and charts were prepared by Clyde Barr, Policy Analyst at Maine State Housing Authority. They are intended to provide a snapshot of Short-term rentals in the State during the year 2022.

Process and Limitations of Research:

Data for this compilation was provided by AirDNA, which is a commercial service that continually “scrapes” listings from the major online short-term rental platforms, VRBO and AIR B&B. Our research indicated that AirDNA is the leading provider of short-term rental data. Their website notes that AirDNA tracks the performance data of 10M Airbnb & VRBO vacation rentals. “It offers short-term rental data analysis on Airbnb occupancy rates, pricing and investment research”. MaineHousing purchased the data set for Maine in September 2022.

We have attempted to de-duplicate the information, as many properties appear on more than one platform. In addition, we realize that this data set is not inclusive of all short-term rentals in Maine. We know that not all property owners use these platforms.

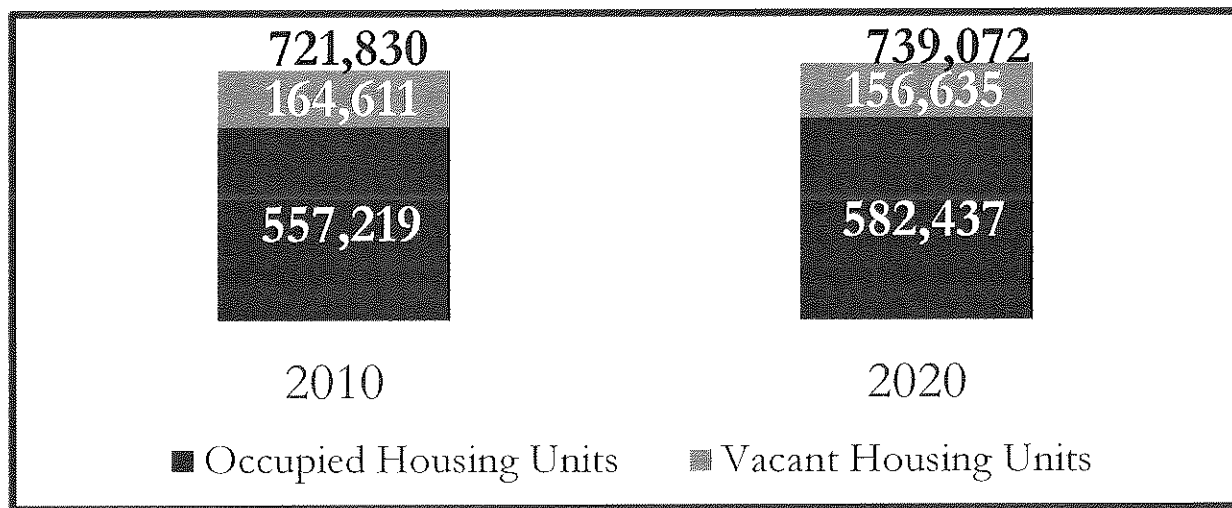
It is difficult to determine the exact number of *investment properties* that could be sold or rented for permanent long term housing. There are many units located within owner-occupied buildings that would, in the absence of short-term rental usage, not be available as long-term units. Similarly Maine has always had a very high percentage of second and vacation homes, many of which are used by families for a portion of the season and rented during other times of year to assist owners with the carrying costs of the properties. Recreational properties of this sort would likely not become long-term rentals.

Another important distinction to be considered with this data is the fact that AirDNA provides listings of any property that it can determine to have been listed on a short-term rental platform in the past, as well as properties that have been listed in the past year. We are focusing on the latter. Rentals can be sorted by actual reservation days. Therefore, a homeowner who travels for a few weeks a year and rents their house for short period can be distinguished from a property that is primarily used for short-term rental.

1. Housing Occupancy in Maine

The first table shows the total number of housing units in the state of Maine according to the US Decennial census from 2010 and 2020. Over the period of a decade the total number of units increased from 721,830 to 739,072, or just over 2%.

Typically vacation rentals and second homes are captured in the number of vacant housing units, which have decreased by 5% between 2010 and 2020. Because Maine has one of the highest percentages of vacation and second homes in the country, there is always a significant percentage of vacant units. (Source: US Decennial Census, 2010, 2020)

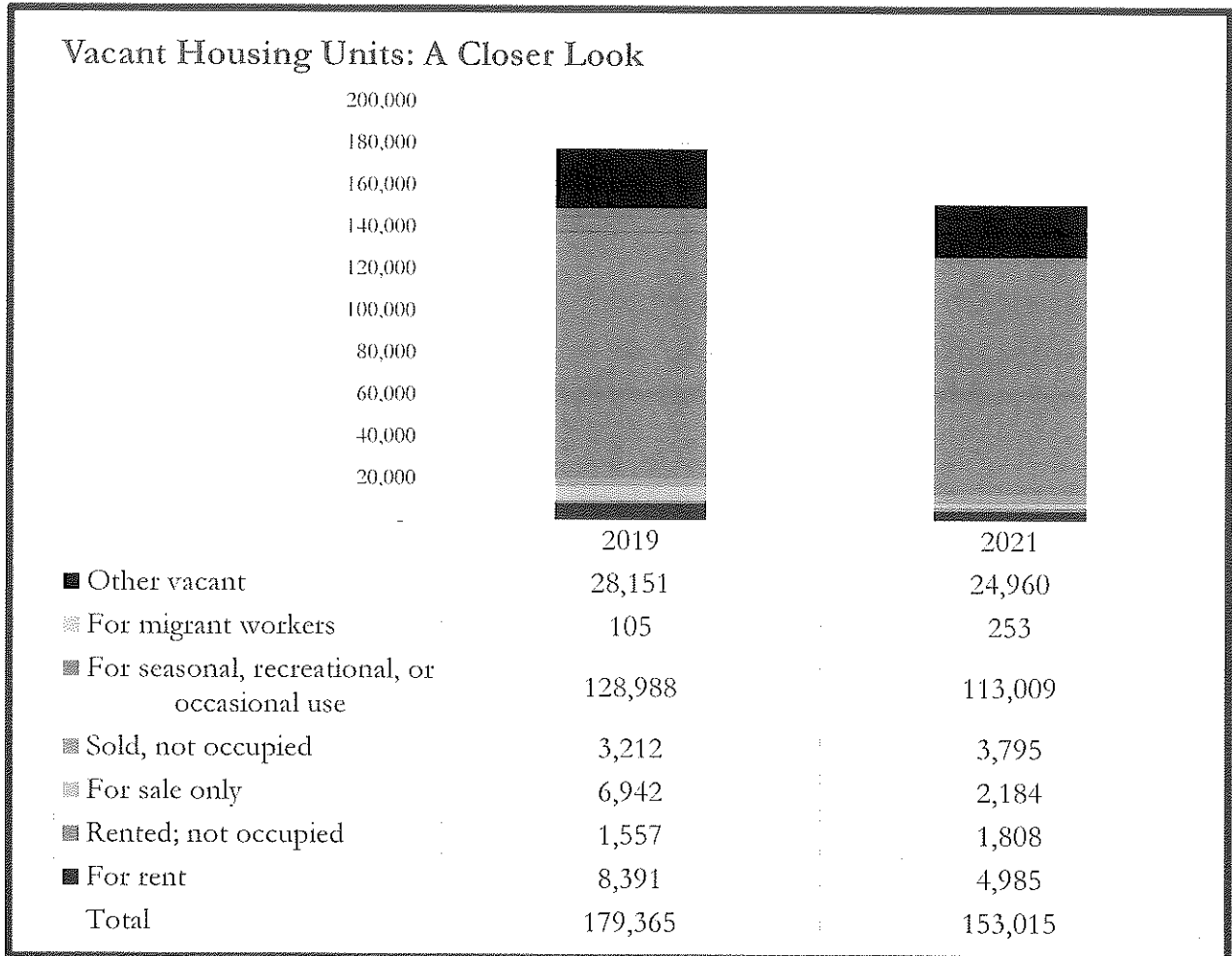


2. Vacant Units in Maine

Chart 2 shows a closer analysis of actual and recent vacant units. This data is collected by the American Community Survey (ACS) and it is important to note that this simply reflects changes between 2019 and 2021 (not the decennial data shown in the previous chart), so the total number of vacant units is slightly different and the time frame included is far more compressed.

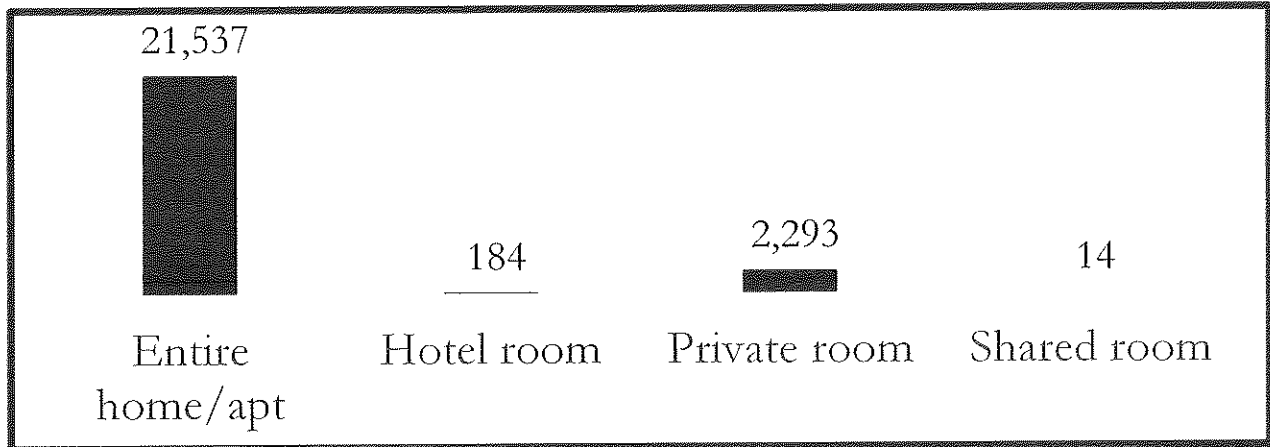
During the period from 2019 through 2021, the total number of vacant units statewide decreased by around 14%, from 179,365 to 153,015. The causes for this sharp decline are not conclusively documented, but this occurred during a period characterized by intense real estate price increases across Maine and the onset of the COVID-19 pandemic, which included an unprecedented number of people working remotely. It seems reasonable to assume (and anecdotal evidence backs this up) that many people came to Maine during these years to purchase property and work remotely or work from second homes that they already owned, accelerating this shift.

The chart shows that the vast majority of vacant housing stock in Maine is comprised of seasonal, recreational or occasional use properties. (Source: ACS 1-Year Estimates, table B25004)



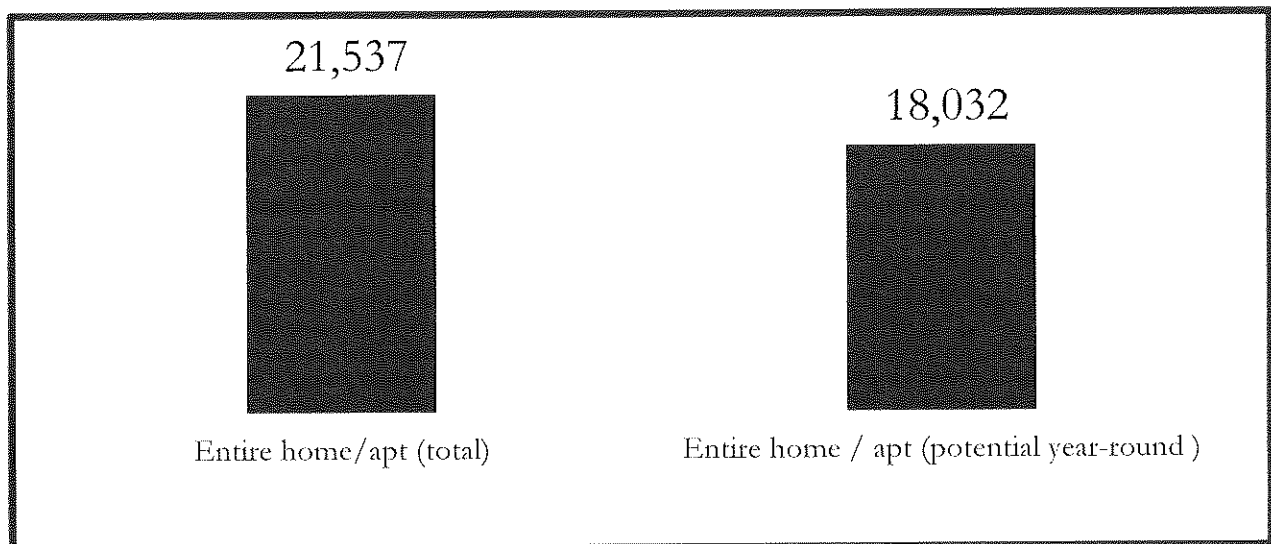
3. Total Short-term Rentals in Maine

According to AirDNA data, there was an aggregate total of 24,028 short-term rental units in Maine that were rented for at least part of 2022. This is equal to around 3% of all housing units in the state. 21,537 of these were entire apartment units or whole house units, with the rest being individual rooms and a smattering of hotel rooms or other shared-space situations.

Chart: Total AirDNA Data Set for Short-Term Rental Types in Maine, 2022

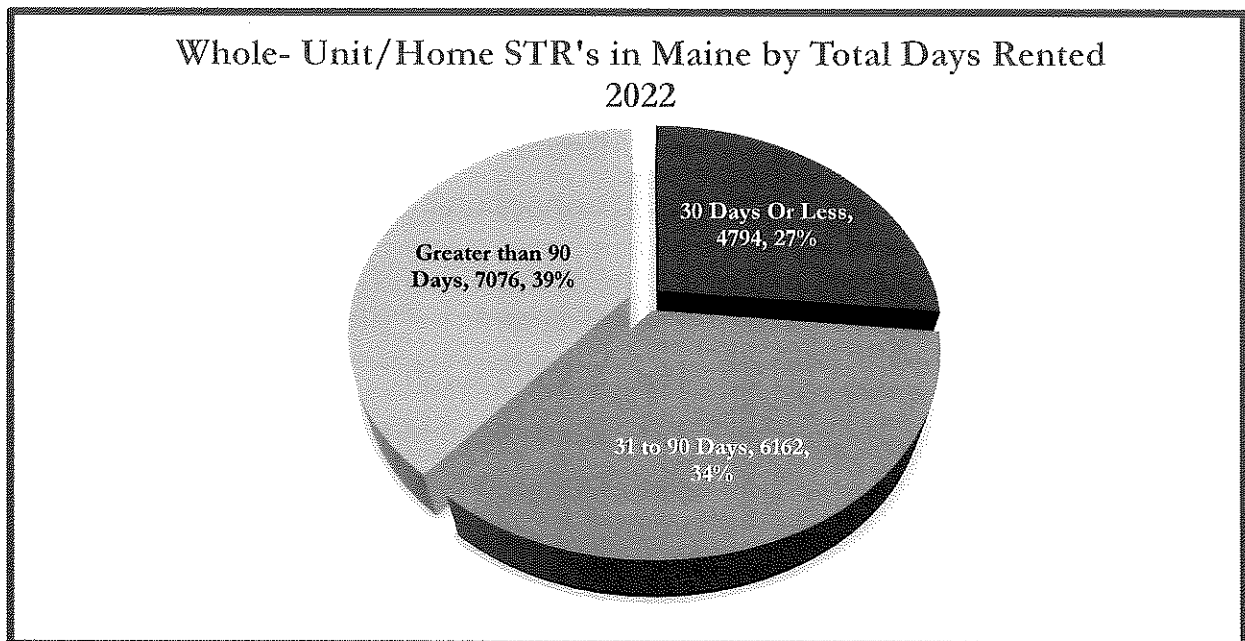
4. “Whole Home” Short-term rentals in Maine

This chart, from AirDNA data, shows further refinement of listings in the “entire home / apartment” category. These listings are of particular interest because they represent properties that could theoretically be repurposed as long term units. However, there are many listings for “Entire home/apt” that would not be suitable for a year-round residence, as listings in Maine include unconventional properties, including “boat”, “cave”, “igloo”, and yurts. MaineHousing attempted to remove all listings that would not be suitable for year-round residences, represented in the 18,032 column. Another important confounding factor is that many “whole home” properties are entirely seasonal and not designed for year-round use. We cannot make that distinction with the available data.



5. Rental Occupancy Levels

Of the 18,032 “whole home” rentals described in the previous chart, we wanted to examine the amount of time that those units were being used as short-term rentals. Our hypotheses in this area were that listings with fewer than 30 days of rental are primarily homeowners and camp owners using the sites to generate extra income; that listings from 31 to 90 days are second homes and camps; and that listings greater than 90 days would constitute the lower threshold for what might be considered an investment property. 61 percent of these rental units were rented for a total of 90 or fewer days in 2022. This seems consistent with the fact that many of these properties are seasonal or are otherwise used by their owners.



0 to 30	4,794	26.6%
31 to 60	3,091	17.1%
61 to 90	3,071	17.0%
91 to 120	2,355	13.1%
120 to 180	2,926	16.2%
180+	1,795	10.0%
Total	18,032	100.0%

6. Quantity of “Whole-Home” Short-Term Rentals by community

One clear element of this data is the fact that the distribution of these properties across Maine is highly variable. As the table below shows, the highest density of STR’s occurs in communities where there is a high level of tourism – on the coast, near ski areas and around lakes.

MaineHousing is in the process of developing an interactive Short-term rental dashboard that will provide a town level analysis of short-term rental properties. While that is not yet complete, AirDNA data show the following municipalities as having the most STR’s. Source: AirDNA

Municipality	Total STR	Municipality	Total STR
Portland	1,024	Ogunquit	356
Old Orchard Beach	835	Bethel	307
Wells	723	Kennebunk	306
Bar Harbor	580	Southwest Harbor	292
York	515	Camden	236
Ellsworth	448	Scarborough	235
Newry	391	Boothbay Harbor	215
Kennebunkport	381	Bridgton	214
Rangeley	367	Harpwell	198
Kingfield	357	Saco	183

The following towns comprise the next fifteen municipalities by total STR’s

Mount Desert 172
 Lincolnville 163
 Belfast 161
 Greenville 145
 Raymond 144
 Phippsburg 143
 Bangor 134
 Biddeford 131

Casco 129
 Rockport 127
 South Portland 121
 Freeport 121
 Windham 106
 Brunswick 106
 Stonington 104

7. Whole Home frequently rented STR's as a percentage of total housing stock by high-STR community

Our final table looks at those communities with the highest prevalence of short-term rentals and compares the portion of those STR's that are rented more than 120 days per year to the total number of housing units in each community.

This analysis therefore aims to provide a relative scale of impact of STR's on a town. A different rental-day threshold would yield different results, but this is our attempt at providing a general yardstick to compare those communities with the most STR's
Source: AirDNA;

Municipality	Total STR	STR 120+ days	STR 120+ days % of Housing units
Portland	1,024	425	1.2%
Old Orchard Beach	835	163	2.2%
Wells	723	171	1.9%
Bar Harbor	580	277	7.6%
York	515	100	1.1%
Ellsworth	448	154	3.2%
Newry	392	114	7.3%
Kennebunkport	381	94	3.2%
Rangely	367	59	3.1%

Source: AirDNA & US Census 2020: ACS 5-year estimate table DP04

Take-Aways:

This document represents an initial sketch of short-term rentals available through the large online platforms in Maine in 2022. We are hesitant to draw any firm conclusions in the absence of additional study, but it is clear from our initial analysis that STR's are not likely to be considered a major housing factor in most Maine municipalities, as the total number of these properties rented for any amount of time is just around 3% of all housing stock in the state. This 3% is distributed very unevenly.

In many cases, the large online rental platforms are merely facilitator services for rental activity that has historically taken place in coastal, lakefront or other recreation-based areas for more than a century. Many of these properties have always been STR's. Anecdotal evidence suggests that property owners who rent these properties do so for many reasons. Many owners are investors, using these properties to generate straight investment income. Others may be "holding" properties that are intended for full-time occupancy after they retire, and still others represent households maintaining family properties that they use seasonally, or represent homeowners developing an extra stream of income to offset property taxes and other costs.

In places where STRs do constitute a significant proportion of a locality's housing stock, particularly in small towns such as in Bar Harbor or Newry, the visibility and impact of STR's is (as the Commission has heard) significant. Local density of STR's has in many communities prompted local efforts to regulate this activity. Similarly, in larger cities like Portland, there is concern about the effect of these properties on the overall, serious, shortage of long-term rental units.

APPENDIX M

**GrowSmart/BuildMaine Policy Action 2023 document, provided by
Commissioner Nancy Smith**

POLICY ACTION 2023

PROBLEM STATEMENT

Maine's current uncoordinated approach to building places is causing real, unintended, and significant social, environmental, financial, economic, and cultural challenges and requires the creation of a cohesive approach to land development, redevelopment, and placemaking.

THE GOAL OF POLICY ACTION 2023

Our goal is to address barriers to and create incentives for equitable, sustainable growth and development that strengthens downtowns and villages of all sizes while pulling development pressure away from productive and open natural areas. We do so acknowledging that Maine has urban, rural, and suburban settings for which any solution may/not be a fit and a variety of people who deserve to be welcomed to their communities.



POLICY ACTION #1:

INCREASE COORDINATION + COLLABORATION BETWEEN LOCAL, REGIONAL, STATE + TRIBAL GOVERNMENT TO SUPPORT DEVELOPMENT IN THE RIGHT PLACES

TRAINING, EDUCATION + TECHNICAL ASSISTANCE

- Create opportunities for better coordination and collaboration between State and local governments, with the Municipal Planning Assistance Program as lead agency in coordination with other state agencies, regional entities, and statewide non-profits.
- Use resiliency funding from Governor's Office of Policy Innovation and the Future (GOPIF) and zoning technical assistance funding from DECD for regional coordination and planning.

ADDRESS STATE SYSTEMS THAT CONTRIBUTE TO SPRAWL

- Address property tax policy between municipalities and the Unorganized Territory (UT), which is contributing to sprawl. This is seen in decreased growth in rural villages, towns, and service center communities and growth in the UT and other outlying areas, based in part on the mil rate/property tax differential.
- Evaluate and updated State cost-sharing for effectiveness and fairness. Municipal tax base total valuation no longer equals wealth because of inflation and market volatility, nor does it take into account where infrastructure investments should be made.

SUPPORT SMART GROWTH

- Update the point system used to allocate state funding for infrastructure to ensure it addresses smart growth principles, aligns with climate action plan, and responds to the economic development plan and housing priorities. Are we incentivizing infrastructure investments where we want growth and development to occur?
- Address the tension between statewide regulation and independent municipal oversight. While statewide solutions may be overly rigid and not allow for local nuances, a lack of at least some statewide minimum standards leads to a "ripple effort" in towns without capacity to plan/manage for growth. Create a framework with flexible statewide minimum standards that provides guidance and resources to municipalities.



POLICY ACTION #2:

REWORK TRANSPORTATION FUNDING TO PROVIDE MORE MONEY FOR MULTI-MODAL TRANSPORTATION ACROSS MAINE

SYSTEM DESIGN

- Provide appropriate public transit to all communities, with extended hours to cover known needs.

IDENTIFY FUNDING OPPORTUNITIES

- The DOT Statewide Strategic Transit Plan is ongoing, and will look at appropriate transit options across the state and sources of funding. Follow and support this process.
- Rework Title 23 §4210-B to identify additional “regular” sources of funding for public transportation. Funding sources might include the following:
 - Transit funding currently comes from a tax on rental trucks and vans. More funds could be generated if the State expanded the types of rental vehicles that are taxed, i.e., cars, powerboats, short-term rentals of larger trucks and aircraft.
 - Have the State take on significantly more, or all, of the required local match, which would reduce regional silos, enable greater access to communities with less taxable value who can't afford the match, and allow more opportunities to create inter-regional public transit and greater system interconnectivity.
 - A small one-time percentage-driven surcharge (not tax) on new and used vehicles at the time of first registration by a new owner or lessee.
 - Apply a very small additional tax or surcharge on all alcoholic beverage and recreational marijuana sales.
 - Apply a very small additional tax or surcharge on auto parts and accessories.
 - Request a portion of toll revenues from the Maine Turnpike.

BUILD THE TEAM

- Bring in additional voices for increased transit funding, including from other sectors, such as rural/farmland/conservation to encourage transit across the state.



POLICY ACTION #3:

SUPPORT COMPLETE STREETS ACTION TO MAKE IT EASIER AND SAFER TO USE ALTERNATIVE TRANSPORTATION

STRENGTHEN MAINE'S COMPLETE STREETS POLICY

- An update to MaineDOT's policy is planned for 2023. Work to align the Complete Streets Policy with best practices and guidance from the National Complete Streets Alliance.
- Advocate for MaineDOT to utilize a multi-sector advisory group during the update process.

ADOPT A VISION ZERO COMMITMENT

- The U.S.DOT and Federal Highway Administration are calling on states to align with the new national goal of zero roadway fatalities and the Safe System approach. Join this effort and pass a state-level Vision Zero commitment.
- Advocate for an update to Maine's speed setting rules to include the 50th percentile rule (rather than 85th percentile) and use a context-based Safe Speed Study model.
- Advocate for a "20 is Plenty" campaign for local neighborhood streets and main streets.

ADVANCE A THRIVING STREETS PROGRAM

- Many communities in Maine have 4-lane "stroads" that are dangerous and are underperforming economically. Examples include Western Avenue in Augusta and Route 1 in Brunswick. Create a statewide "Thriving Corridors Program" (similar to the Village Partnership Initiative) that redevelops these corridors into new mixed-use neighborhoods through an integrated land use and corridor planning process. The program can help create space for safe walking and biking, provide substantial amounts of housing, and dramatically increase economic performance and tax base.

PROVIDE OPPORTUNITIES FOR ENGINEERS

- Work with engineers, including those on the engineering council, on alternative transportation design standards that can be employed using engineering judgement.
- Support opportunities for engineers to do hands-on walk and bike tours of study locations and engage in dialogue with people who have lived experience walking and biking.



POLICY ACTION #4:

REWRITE GROWTH MANAGEMENT LAW TO CREATE A MORE FLEXIBLE + EFFECTIVE FRAMEWORK FOR ALL COMMUNITIES

CREATE A MORE FLEXIBLE FRAMEWORK

- Provide an updated framework that allows for best practices to evolve over time and that works for communities of all sizes and types, whether urban, rural, or suburban.
- Improve on designated growth area concept, and provide a more relatable framework that aligns better with the kinds of places we have in Maine: crossroads, villages, downtowns, neighborhoods, high-impact corridors, rural farmsteads, working waterfronts, etc.
- Improve public participation requirements, including incorporating the charrette process and other techniques that broaden engagement.
- Bring the rules into the 21st Century, including updating outdated definitions and concepts and eliminating requirements for information that can easily be found online.
- Simplify, clarify, and update Section 4326: Required Elements of a Comprehensive Plan.
- Eliminate the checklist through rulemaking so that comprehensive planning can focus on the future, not the past. Planning can and should still begin from an understanding of data, but can use this information as a starting point for focusing on how to advance critical local needs and priorities.

CREATE MORE TOOLS + GUIDANCE

- Secure more funding to support communities in their work of creating their plans - e.g. grants to support the comprehensive planning process as well as implementation grants.
- Have the State and Regional Planning Commissions (RPOs) provide critical data and analysis mapping work, taking this burden off municipalities.

STRENGTHEN THE VALUE OF AN APPROVED COMPREHENSIVE PLAN

- Offer communities in compliance better access to state funding from various state departments. For example, tie approved comprehensive plans to transportation and other state funding.



POLICY ACTION #5: STRENGTHEN STATE HISTORIC TAX CREDIT TO FULLY REALIZE THE BENEFITS THROUGHOUT MAINE

SECURE EXISTING PROGRAMS

- Increase the Qualifying Rehabilitation Expenses for the 25% small project credit to a maximum of \$750,000, working with the existing 5-10% affordable-housing booster.
- Establish a State Register of Historic Places to streamline eligibility for the state program.

INCREASE ACCESS TO PRESERVATION FUNDS

- Allow historic homes, barns, and other non-income producing buildings to access tax credits for historic rehabilitation to support Maine's expressed goals around developing quality of place and community revitalization. Making the credit available for Maine's stock of historic houses supports the State's goal of increasing affordable housing and decreasing pressure on Maine's housing market. Program details include:
 - Provide a 25% tax credit for owner-occupied residences.
 - Give a 5% booster for low-income applicants (120% AMI for homeownership and 80% AMI for rental), reuse of a vacant property, and/or inclusion of affordable rental units.
 - Program would have a minimum of \$5,000 and maximum of \$250,000 in Qualifying Rehabilitation Expenses (qualifying expenses would include weatherization).

Since 2008, 122 federal and state historic tax credit projects have been approved in Maine, resulting in the investment of more than half a billion dollars in our state. Last year, the Office of Program Evaluation and Government Accountability (OPEGA) found that the Maine Historic Rehabilitation Tax Credit's structure and administration are sound and efficient, and that the positive outcomes exceed the stated historic preservation goals while promoting affordable housing, job creation, and economic growth. The report went on to note "that allowing historic homes, barns and other non-income producing buildings to access tax credits for historic rehabilitation could support Maine's expressed goals around developing 'quality of place' and community revitalization. Making a credit available for Maine's stock of historic houses could also support the State's goal to increase affordable housing and decrease pressure on Maine's housing market."



POLICY ACTION #6:

UPDATE SUBDIVISION REGULATIONS TO ENCOURAGE DEVELOPMENT IN THE RIGHT PLACES

REVISE STATE SUBDIVISION RULES

- Add a Purpose Statement to the State Subdivision Statute.
- Evaluate the list of exemptions in the Subdivision law and find ways to increase clarity.
- For projects located within Designated Growth Areas and/or on public water or sewer, exempt the creation of new units from subdivision review, relying on the local site planning process for those projects.
- Consider and update review standards to better align with local and state land use goals and local infrastructure planning and funding needs.
- Allow for staff sign-offs for minor subdivisions or lot changes, so those projects don't have to go to the Planning Board.



POLICY ACTION #7:

EXPLORE FISCAL POLICIES TO INCENTIVIZE DEVELOPMENT IN DOWNTOWNS & VILLAGES, WHILE REDUCING SPRAWL

EXPLORE TAX POLICY

- Consider a land value tax, which would allow municipalities to voluntarily replace property tax with a tax on the value of the underlying land, as a way to incentivize investments on properties where there is existing infrastructure, and increase incentives for keeping rural land in productive natural resource-based uses. This also shifts the municipal tax burden away from at-risk community members to negligent and absentee landowners (eg. PA's Split-Value Tax).
- Consider a tax deferral program for development in the right locations, where individuals pay their local property taxes and then apply to the state for an offset.
- Explore creating a conveyance tax / real estate transfer tax (like CT's Community Investment Act or MA's Community Preservation Act). Explore sliding scale/percent of real estate transaction to make sure everyone pays their fair share.

EXPLORE POLICIES TO ASSIGN ACCURATE COSTS OF DEVELOPMENT

- Consider a policy that assigns the full cost of development projects, where municipalities determine the maintenance & replacement costs for the full life cycle of a project (30 +/- years), collect those funds from developers at the time of project approval, and use those funds to pay for maintenance & replacement costs over time.

IDENTIFY FUNDING

- Find a permanent funding stream for new and existing programs that support smart growth, such as a Community Investment Act, etc.
- Fund existing programs such as the MaineDOT Village Partnership Initiative and the State's Soil Health Program.



POLICY ACTION #7:

CONT'D

SUPPORT DEVELOPMENT

- In Designated Growth Areas and/or with public sewer infrastructure, reduce minimum lot sizes to 5,000 sf, or 1/8 acre, or less. For properties in growth areas where there is NO public sewer reduce minimum lot sizes to 20,000 sf. Example legislation in VT and CT.
- Analyze the implications of subdivision rules that treat creation of 3 or more units as triggers for subdivision law, particularly as related to LD 2003 and within Land Use Planning Commission (LUPC) jurisdiction.
- Evaluate LUPC adjacency rules to determine they ensure smart growth.
- Reform 80B to make it more difficult to sue to stop projects located within designated growth areas. Nuisance suits cost very little to file but drive up the cost of development. Should Maine have a LUR court like some other jurisdictions?

PROTECT FARMLAND + OPEN SPACE PROTECTION

- Explore ways to enroll more farmland acres in Maine's Farmland Tax Program.
- Increase participation in the Voluntary Municipal Farm Support and the Current Use Programs through state incentives to municipalities, increased outreach, and education to support municipal officials.
- Remove the acreage minimum to increase the number of acres enrolled in the programs.
- Create a "right of first refusal" mechanism that will allow municipalities and land trusts to purchase farmland that is enrolled in the current use program before it released from the program and sold for development.
- Consider allowing dual-use solar projects to be placed on land in current farm use.
- Implement Solar Siting Policies drafted by the Governor's Energy Office Agricultural Stakeholder Group, including creation of a centralized clearinghouse of information, dual-use pilot program, standards for dual-use and co-location in permit-by-rule review, hosting capacity maps, support for municipal planning capacity, and consideration of program preference based on agricultural site characteristics.
- Lower the interconnection costs for PFAs contaminated fields used for grid-scale solar.
- Look at ways to strengthen Tree Growth and Open Space tax programs, using soil quality as another possible baseline metric.

ENHANCE STATE PLANNING

- Support state planning, through re-establishing the State Planning office, adding capacity to GOPIF or another agency, or increasing support for regional planning entities to coordinate smart growth programs.

POLICY ACTION #8:

MOVE TOWARD CARBON NEUTRAL BUILDINGS TO ADVANCE STATE CLIMATE GOALS

MAKE A PLAN

- Conduct a study to develop plan for holistically decarbonizing the building sector (analogous to transportation roadmap) to ensure that there is organized consensus and opportunities for stakeholder engagement.

SUPPORT CHANGES TO BUILDING CODES

- Support municipal adoption of building/stretch codes by providing resources, technical support, workforce development, etc.

ADDRESS EMBODIED CARBON

- Develop a type of energy building model to help identify embodied carbon and best practices for retrofits/new construction.
- Lower the carbon footprint of construction and limit waste through legislation that incentivizes reuse and recycling of building materials. There are currently no requirements or streamlined avenues for the proper recycling and reuse of building materials during construction and demolition.

INCREASE INCENTIVES

- Grow workforce development for weatherization, in coordination with Efficiency Maine and through new incentives provided by the Green Bank program.
- Explore an energy rating system for homes at point of sale in order to incentivize weatherization and energy efficiency in existing and new buildings. This kind of system would encourage homeowners and developers to make changes that would lead to more climate friendly buildings.
- Secure a source of funding to provide homeowners with free energy audits, which would set people up with an implementation plan for weatherization work.



BUS STATION:

WHAT'S MISSING? WHAT OTHER IDEAS DON'T FIT THE PROBLEM STATEMENT AND GOAL STATEMENT?

OTHER MISSING IDEAS TO PURSUE

- Establish the role of the state in a coordinated effort to proactively plan and implement recycling of renewable energy equipment, such as solar panels. The DEP Stewardship Report notes the disposal of defunct solar panels as number five on their list of issues not yet addressed.

APPENDIX N

**MaineHousing/Department of Economic and Community
Development request for proposals (RFP): Establishment of
Statewide and Regional Housing Production Goals**



Request for Proposal (RFP)

Establishment of Statewide and Regional
Housing Production Goals

September 6, 2022

Purpose of RFP

Maine State Housing Authority (“MaineHousing”) is inviting qualified individuals and entities to submit proposals to provide research and analysis services to assist it and the Department of Economic and Community Development (“DECD”) in establishing statewide and regional goals for housing production. This research will help Maine meet its obligations under the recently enacted LD 2003, "An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” and assist with policymaking efforts for years to come. In addition, the information gained through this process will support local and regional efforts to increase the availability and affordability of all types of housing for Maine people.

This research project should be undertaken with consideration of the following:

- Production goals should be based on a comparison of Maine’s current housing stock with the housing stock necessary to align with both 10-year and 20-year statewide and regional projections of economic and population growth.
- Production goals should include both the rental and homeownership markets, for households at low, middle and upper income levels.
- In addition to establishing the above-referenced housing production goals, the report should include an overview of what the most recent U.S. Census and American Community Survey data says about Maine’s current housing stock, along with a description of the limitations of that data set.
- Given the impact of the short-term rental market on the supply of year-round housing for Maine people, the report should include data on the frequency of use of short-term rentals as well as both state-level and local policy recommendations for addressing those impacts.
- Maine has very old housing stock, much of which is in very poor condition. The report should consider, to the extent possible, how the condition of the existing housing stock relates to regional and statewide production goals.

About MaineHousing

MaineHousing is an independent state agency that bridges public and private housing finance, combining them to benefit Maine’s low and moderate-income people. MaineHousing brings millions of new private and federal housing funds to invest in Maine to create safe, affordable, and warm housing. The mission of MaineHousing is to assist Maine people in obtaining and maintaining quality affordable housing and services suitable to their housing needs. Additional information concerning MaineHousing can be found at www.mainehousing.org.

MaineHousing’s Communications and Planning Department (“CPD”) provides communication, marketing, research and analysis, professional development, and strategic planning support to all MaineHousing program and administrative departments. Additionally, CPD works with external partners, customers, interested parties, and the public by providing policy analysis, housing needs assessments, and market analysis.

Selection Process

Each individual or entity responding to this RFP (“Respondent”) will be evaluated by a committee consisting of staff from MaineHousing, DECD and the Governor’s Office of Policy Innovation &

Request for Proposals: Establishment of Statewide and Regional Housing Production Goals

the Future (“GOPIF”) (collectively, the “Evaluation Committee”). The Evaluation Committee will review all proposals and may contact the Respondent to clarify any response, and obtain information from any available source concerning any aspect of the proposal. Respondent may be asked to present to the Evaluation Committee as part of the selection process.

Respondent is cautioned that the Evaluation Committee is not required to ask for clarifications or information that is essential for a complete and thorough evaluation of Respondent proposals. Therefore, all proposals should be complete when submitted.

The Evaluation Committee intends to select the proposal or proposals that provide the best value in meeting the Evaluation Committee’s business objectives identified in this RFP. The Evaluation Committee will also take into account the detail and completeness of proposals.

Subject to the reservation of rights and the other terms and conditions of this RFP, the Evaluation Committee will select the Respondent or Respondents whose proposal is most advantageous to MaineHousing, DECD and GOPIF. Any award is contingent on successful negotiation of the final contract terms. In no event will any claimed obligations of any kind be enforceable against MaineHousing, DECD or GOPIF unless and until MaineHousing and the selected Respondent enter into a written contract. This RFP and any successful Respondent’s proposal, as may be modified pursuant to this RFP, will be incorporated by reference into and be part of any contract between MaineHousing the successful Respondent. The Evaluation Committee will determine a detailed work plan with any selected Respondent prior to initiating services to help maximize efficiency for the MaineHousing and the Respondent.

Contract Duration

The duration of any contract resulting from this RFP (the “Contract”) will be six months, with two potential renewal periods of six months each at MaineHousing’s sole option.

Information Contact

All questions and inquiries relating to this RFP must be submitted to MaineHousing by e-mail and include the name of the questioner and his/her telephone number and email address. The MaineHousing contact for all questions about the RFP is:

Name: Erik Jorgensen
Title: Senior Director of Government Relations & Communications
Address: MaineHousing, 26 Edison Drive, Augusta, ME 04330
Telephone: 207-626-4640
E-mail: ejorgensen@mainehousing.org

Respondent contact with any other MaineHousing employee, DECD employee, consultant or representative concerning this RFP may be grounds for rejection of a proposal submission.

Submission Timeline

September 27, 2022 All questions regarding the RFP are due no later than 5:00 PM EST and should be e-mailed to ejorgensen@mainehousing.org using the subject line **Establishment of Statewide and Regional Housing Production Goals RFP**.

October 4, 2022 MaineHousing will respond to questions it deems relevant and material to this RFP by posting a list of such questions and MaineHousing's responses on its website no later than 5:00 PM EST. Any responses provided by MaineHousing will become part of this RFP.

October 25, 2022 Proposals are due to MaineHousing by email at ejorgensen@mainehousing.org no later than 5:00 PM EST.

Submissions

Respondents should provide the following by the method and deadline stated herein:

- **General Respondent Information**
 - A brief background of the Respondent if an entity (firm, agency, organization, etc.).
 - Identify specific individuals who will be performing the services, and provide resumes for each, with details regarding the qualifications and experience in completing the types of work described in this RFP.
 - Proposed rates and budget.
 - Describe the cybersecurity protections in place with regard to any computer system or network to be used in connection with work performed for MaineHousing culminating from this RFP.
 - A statement regarding Respondent's commitment to equal opportunity, diversity and inclusivity in internal hiring practices and policies, and regarding working relationships with women- and minority-owned firms, if applicable.
 - Names and contact information of three references (other than MaineHousing) for which you have provided services similar to those described in this RFP.
 - Name, title and signature of individual with authority to bind Respondent.

- **Scope of Work Proposal**

A proposal that outlines the scope of work and a schedule for its accomplishment, to include:

 - Collaboration with MaineHousing, DECD, GOPIF and other Maine State agencies to develop an effective research plan.
 - Outline of data within state control or otherwise available through Maine-based organizations or governments which is needed to assist with project completion.
 - Plan for the analysis and approach to be used in establishing statewide and regional housing production goals, along with strategy for determining which regions (county, labor market area, etc.) will be utilized to establish regional housing production goals.
 - Plan for the approach to be used in assessing statewide use of short-term rentals and recommendations for state and local policy initiatives that could limit the negative impacts of short-term rentals on the year-round supply of housing.

- Plan for the approach to be used in assessing how the quality of the housing stock will affect regional and statewide housing production goals.
- Timelines and Schedules: How you will meet the deadline of six months for producing the report.

All supporting data and other relevant materials will be provided to MaineHousing.

- **Conflict of Interest**

If the Respondent, any principal or affiliate of the Respondent or anyone who will be paid for work on any contract resulting from this RFP has business ties, familial relationships, or other close personal relationships with a current MaineHousing employee or commissioner or anyone who was a MaineHousing employee or commissioner within the past year, describe such relationship and identify the parties.

If the Respondent, any principal or affiliate of the Respondent or anyone who will be paid for work on any contract resulting from this RFP has business ties, familial relationships, or other close personal relationships with a current DECD or GOPIF employee or anyone who was a DECD or GOPIF employee within the past year, describe such relationship and identify the parties.

- **Sample Work Products and References**

- Up to three samples of similar research work on housing markets/housing need
- Three references including government and/or nonprofit clients and contact information

- **Availability Timeframe**

Once a proposal has been accepted, MaineHousing will request an onsite or online meeting to discuss initial implementation of this project. This initial meeting will help define the scope and responsibilities of the successful Respondent.

- An initial planning meeting within two weeks of the start of the Contract to finalize a work plan and an acceptable timeline for completing the research project.
- Subsequent consultation as agreed upon by both MaineHousing and the Respondent.

- **Fee Structures**

A list of individual fees for each of the following:

- Rates for staff members assigned to the project.
- Estimated cost range for research project as described above, with separate cost breakouts for (1) the short-term rental data and policy analysis and (2) the housing quality assessments.
- Conducting the research.
- Producing a report of the results.

Submission Due Date

Proposals are due by email to MaineHousing at ejorgensen@mainehousing.org by October 25, 2022.

Additional Terms and Conditions

This RFP is subject to the following terms and conditions:

- MaineHousing expressly reserves the following rights:
 - to modify or withdraw this RFP at any time, whether before or after any responses have been submitted or received, and to reject any or all Respondents and not award a contract. to adjust the timetable for this RFP as MaineHousing deems necessary.
 - to reject and not consider any or all Respondents who do not meet the requirements of this RFP, including but not limited to incomplete responses and/or responses offering alternate or non-requested services.
 - to waive informalities and minor irregularities in proposals received.
 - to negotiate price or other factors included in any proposal submitted to MaineHousing. If MaineHousing is unable to negotiate a mutually satisfactory arrangement with the successful Respondent under this RFP, MaineHousing may, in its sole discretion, negotiate with another Respondent or cancel this RFP and not select any proposal or MaineHousing may select another proposal.
 - to reject a selected Respondent which does not enter into the required contract to deliver the services described in this RFP and to offer a contract to another Respondent.
- No formal scoring of proposals will be done.
- Submissions will be reviewed and evaluated by the Evaluation Committee based on its assessment of each Respondent's capacity to meet the scope of the RFP. Upon such review, the Evaluation Committee may schedule interviews with select Respondents.
- This RFP and the successful Respondent's proposal, as may be modified pursuant to this RFP, will be incorporated by reference into and be part of the Contract.
- The Contract will be based on a proposal or proposals deemed by the Evaluation Committee to be most advantageous, taking into account the factors described in this RFP.
- The Contract will contain standard terms of MaineHousing's professional services contract, including confidentiality provisions and provisions concerning the protection of personally identifiable information ("PII").
- In no event will any obligations of any kind be enforceable against MaineHousing, DECD or GOPIF unless and until a written agreement is entered into.
- Each Respondent bears all costs and expenses of its response and there will be no reimbursement for any costs and expenses relating to the preparation of responses submitted or for any costs or expenses incurred during any negotiations.
- Information submitted by a Respondent in any proposal becomes public information, and is subject to disclosure in accordance with the Maine Freedom of Access Act, 1 M.R.S. Section 401 et seq. ("FOAA"), except as provided therein. Respondent acknowledges that MaineHousing is required to comply with FOAA.
- Respondent shall maintain in trust and confidence and shall not disclose to any third party, except as such disclosure may be authorized in writing in advance by MaineHousing, and shall not use for any unauthorized purpose, any and all information, documents and data received or obtained from or on behalf of MaineHousing. Respondent may use such information, documents and data only to the extent required for the purposes described in this RFP. Respondent shall adhere to all security, confidentiality and nondisclosure policies

and procedures required by MaineHousing for the protection of such information and data from unauthorized use and disclosure and from loss.

- Protests of any award made pursuant to this RFP must be submitted in writing to MaineHousing at the address herein to the attention of MaineHousing's Director. To be considered, protests must be received by MaineHousing within fifteen (15) calendar days from the date of notification of the contract award and provide specific reasons and any supporting documentation for the protest.

MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, age, physical or mental disability or genetic information. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Lauren Bustard, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine 04330, Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.

APPENDIX O

**Research request memorandum from Office of Policy and Legal
Analysis regarding other state laws regulating short-term rentals;
memorandum on New York's Multiple Dwelling Law that
impacts short-term rentals**

OPLA RESEARCH REQUEST MEMO

To: Karen Nadeau, Legislative Analyst, Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

From: Kristin Brawn, Legislative Researcher

Date: September 22, 2022

RE: Other States' Short-Term Rental Laws

Hi Karen,

You asked me to find out what states have enacted laws that apply to the regulation of short-term rentals (STRs) statewide. Several states, including Arizona, California, Colorado, Florida, Florida, Idaho, Indiana, Massachusetts, New York, Tennessee, Virginia, Washington and Wisconsin have enacted laws regarding STRs. In these states, the type of legislation that has been enacted includes the statewide registration/licensure of STRs, other statewide requirements of STRs, prohibitions on local bans of STRs, authorization of local regulation of STRs, prohibition of certain STRs and taxation of STRs.

I. Statewide Registration/Licensure of STRs

A. Massachusetts

In 2019, Massachusetts enacted [Acts of 2018, Chapter 337](#), which requires all STR properties to be registered with the state's Executive Office of Housing and Economic Development, and directs the Office to oversee and implement the regulations for the statewide registry. The law also requires STR hosts to have at least \$1 million of liability insurance for each STR, unless a third-party platform already maintains equal or greater coverage for the host.

B. Florida

Florida law ([Fla. Stats. §§509.013, 509.241 and 509.242](#)) requires a "transient public lodging establishment," which is rented to guests more than 3 times in a calendar year for periods of less than 30 days or one calendar month, or which is advertised or held out to the public as a place regularly rented to guests, to obtain a license from the Florida Department of Business and Professional Regulation, Vacation Rental and Timeshare Project Licensing Division. These licenses fall under two main categories: Vacation Rental – Condominium, which is issued for a group of units or a singular unit in a condominium complex or a cooperative; or Vacation Rental – Dwelling, which includes single-family, two-family, three-family or four-family house or dwelling units that are not a timeshare project.

C. Wisconsin

Wisconsin law ([Wis. Stat. §66.1014](#)) requires any person who maintains, manages or operates an STR for more than 10 nights each year to obtain a license as a tourist rooming house from the state Department of Agriculture, Trade and Consumer Protection.

II. Other Statewide Requirements of STRs

A. Washington

Washington law ([RCW 64.44.010](#) and [64.44.020](#)) includes transient accommodations as property subject to reporting hazardous chemical contamination to the state Department of Health.

III. Prohibitions on Local Bans and Authorization for Local Regulation of STRs

A. Arizona

Arizona law ([A.R.S. §9-500.39](#)) prohibits a city or town from banning STRs or for restricting the use of or regulating STRs based on their classification, use or occupancy. However, the law does allow local regulation

of STRs for the protection of the public’s health and safety; adopting and enforcing residential use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues; limiting or prohibiting the use of an STR for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses; or requiring the owner of an STR to provide emergency contact information.

Recently enacted legislation ([SB 1168](#)) further expands local regulatory authority to allow a city or town to require an owner of an STR to obtain and maintain a local regulatory permit or license; to require, before offering an STR for the first time, the owner to notify all single-family residential properties adjacent to, directly and diagonally across the street from the STR; to require the owner to display the local regulatory permit or license number on each advertisement for an STR; and to require the STR to maintain liability insurance of at least \$500,000 or to advertise and offer the rental through an online lodging marketplace that provides equal or greater coverage.

B. California

California law ([Gov. Code §25132](#)) imposes fines for violation of local STR ordinances. Recently enacted legislation ([SB 60](#)) raised the maximum fines for violations of short-term rental ordinances. If the infraction poses a threat to health or safety, a county or city government may charge up to \$1,500 for the first violation, \$3,000 for the second violation of the same ordinance within one year, and \$5,000 for each additional violation of the same ordinance within one year.

C. Colorado

In 2020, Colorado enacted legislation ([HB 20-1093](#)) that grants a board of county commissioners the authority to license and regulate properties advertised and rented as STRs and to fix the fees, terms and manner for issuing and revoking licenses.

D. Florida

In addition to requiring licensure of STRs, Florida law ([Fla. Stats. §509.032](#)) also prohibits any local law, ordinance or regulation from banning STRs entirely or regulating the length of stays or their frequency. However, the law does allow local governments to conduct inspections of public lodging establishments for compliance with state building and fire prevention codes. The law also allows regulations exclusively relating to property valuation as a criterion for vacation rental if the regulation is required to be approved by the state land planning agency because the rental is located in an area with a critical state concern designation.

E. Idaho

Idaho law ([Idaho Stat. §67-6539](#)) prohibits a county or city from enacting or enforcing an ordinance that “has the express or practical effect” of prohibiting STRs. However, the county or city may implement regulations necessary to safeguard public health, safety and general welfare in order to “protect the integrity of residential neighborhoods” in which the STRs operate. The law also prohibits a county or city from regulating “the operation of a short-term rental marketplace.”

F. Indiana

Indiana law ([IC 36-1-24](#)) prohibits bans on owner-occupied STRs by any zoning ordinance or classification of a unit that permits residential use, as well as certain bans on non-owner-occupied STRs. The law does allow a local law or plan that regulates, prohibits or limits STRs only for the following primary purposes: protection of the public’s health and safety related to fire and building safety, sanitation, transportation, traffic control and pollution control if enforcement applies to similar properties that are not STRs; residential use and zoning related to noise, protection of welfare, property maintenance and nuisance issues; to limit or prohibit the use of STRs to house sex offenders, to operate a structured sober living home, to manufacture, exhibit, distribute or sell illegal drugs, liquor, pornography or obscenity, to operate an adult entertainment establishment; to limit or prohibit STRs located within a conservancy district; and to provide an emergency contact for an STR. The law also allows for a locality to require an owner to obtain a permit for each STR property.

G. Tennessee

Tennessee law ([Tenn. Code §13-7-603](#)) states that an ordinance, resolution, regulation, rule, or other requirement that prohibits, effectively prohibits, or otherwise regulates the use of property as an STR does not apply if the property was being used as an STR by the owner of the property prior to the enactment of that ordinance, resolution, regulation, rule, or other requirement by the local governing body. The ordinance, resolution, regulation, rule, or other requirement in effect at the time the property began being used as an STR is the law that governs the use of the property until the property is sold, transferred, ceases being used as an STR for a period of 30 continuous months or has been in violation of a generally applicable local law three or more separate times.

H. Virginia

Virginia law ([Code of Va. §15.2.983](#)) authorizes any locality, by ordinance, to establish an STR registry and require operators within the locality to register annually.

I. Wisconsin

In addition to requiring licensure of certain STRs, Wisconsin law ([Wis. Stat. §66.1014](#)) prohibits local governments from banning the rental of an STR for a period of time of seven consecutive days or more. However, if a residential dwelling is rented for periods of more than six but fewer than 30 consecutive days, a political subdivision may limit the total number of days within any consecutive 365-day period that the dwelling may be rented to no fewer than 180 days.

IV. Prohibition of Certain STRs

A. New York

New York law ([MDW §4](#)) prohibits individuals from renting out non-owner-occupied apartments for fewer than 30 days, and prohibits any advertising of these units as STRs.

V. Taxation of STRs

According to information from the [National Conference of State Legislatures](#), many states' laws provide for the taxation of STRs. According to the Bloomberg Tax 2018 Survey of State Tax Departments, 25 states require owners of STRs to collect sales tax, while 14 states require the third-party facilitator, such as Airbnb or VRBO, to collect sales tax. Some states also allow local tax of STRs. For example, Wisconsin enacted legislation in 2021 ([S 198](#)), which allows municipalities to enact ordinances imposing a tax, not to exceed 8% of the sales price, from selling or furnishing of rooms or lodging by owners of STRs.

More state-specific information regarding taxation is not provided in this memo, as the main focus was to identify laws that concerned statewide regulation of STRs; however, if the Commission would like to have more detailed information regarding how other states approach state and/or local taxation of STRs, that information can be provided at a future meeting.

OPLA RESEARCH REQUEST MEMO

To: Members of the Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

From: Kristin Brawn, Legislative Researcher

Date: September 30, 2022

RE: Information on New York Multiple Dwelling Law that Impacts Short-Term Rentals

Dear Commissioners:

At the last meeting on September 23, 2022, the Commission requested more information on New York State's Multiple Dwelling Law (MDL) that impacts short-term rentals (STRs). Following is a brief history of the law and legal challenges to the law, as well as information on how the law may have impacted STRs in the state.

History and Legal Challenges

New York's only statewide regulation of STRs is contained in the state's MDL ([N.Y. Mult. Dwell. Law §§1 to 367](#)), which only applies to cities with a population of 325,000 or more. However, smaller cities and towns are permitted to adopt the standards of the MDL. The law establishes four classifications of dwelling units:

- Private dwellings, which are either (1) single-family private dwellings or (2) two-family private dwellings; and
- Multiple dwellings, which are either (3) Class B multiple dwellings, which are transient or temporary abodes, such as hotels, rooming houses and dwellings with five or more boarders, roomers or ledgers in one household; or (4) Class A multiple dwellings, which include all residential buildings that are not Class B dwellings, such as tenements, apartment houses, studio apartments, duplex apartments and garden-type maisonette dwelling projects.

In 2010, [section 4](#) of the MDL was amended to its current form to restrict the use of Class A multiple dwellings to "permanent residence purposes," defined as "occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more." This law only applies to Class A multiple dwellings and not to private single-family or two-family dwellings. The law does provide for two exceptions for shorter stays than 30 days:

- Occupancy by house guests or lawful boarders, roomers or lodgers living within the household of the permanent occupant; or
- Incidental and occasional occupancy by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, provided that there is no monetary compensation paid to the permanent occupants for such occupancy.

[Practical Law states](#) that the exception for house guests or lawful boarders, roomers or lodgers could allow a host to create an STR arrangement for a bedroom or other part of the unit, as long as the host remains physically present in the unit.

The sponsor of the 2010 legislation, Senator Liz Kreuger, [stated that the law was not designed to target Airbnb and other STR hosting platforms](#) or hosts who rent out their place while they travel for a few days. Rather, the target was businesses such as landlords who advertise their apartments on several STR platforms, including Airbnb.

In October 2016, the MDL was further amended, adding [section 121](#), which prohibits advertising that promotes the use of dwelling units in a Class A multiple dwelling for other than permanent residence purposes. The law also imposes a civil penalty of no more than \$1,000 for the first violation, \$5,000 for a second violation and

\$7,500 for the third and subsequent violations. For cities with a population of 1 million or more (New York City), the law also directs the mayor's office of special enforcement to enforce the law.

Within hours after the enactment of the 2016 law, Airbnb filed a [lawsuit](#) against the State of New York on the grounds that the new law violated its constitutional rights to free speech and due process, and that it was inconsistent with Section 230 of the Communications Decency Act, 47 U.S.C. § 230, ("CDA") which protects online intermediaries that host or republish speech from a range of liabilities. However in December 2016, Airbnb [agreed to drop the lawsuit](#) as long as New York agreed to enforce the law against hosts only and not fine Airbnb for illegal advertisements.

Impact of Law on STRs

Despite the enactment of the 2010 and 2016 laws, studies have shown that illegal STRs continue to exist in the state. However, New York City, where a majority of STRs in the state are listed, has begun to address the STR issue by filing lawsuits against illegal rentals and enacting ordinances to require STR booking services to provide data regarding STRs and for STR hosts to register their rentals with the city.

A [2018 report by the McGill University School of Urban Planning](#) which analyzed Airbnb activity in New York City and the surrounding areas during the three-year period of September 2014 to August 2017 found that two-thirds of revenue from Airbnb listings was likely to be illegal. Entire-home/ apartment listings accounted for 75% (\$490 million) of total Airbnb revenue and represented 51% of total listings. The analysis determined that an estimated 87% of entire-home reservations were illegal under New York State law, which meant that 66% of revenue (\$435 million) and 45% of all New York Airbnb reservations for the previous year were illegal.

In October 2021, [a press release from the New York City Mayor's Office](#) announced that the Mayor's Office of Special Enforcement had secured more than \$1.2 million in settlements in three illegal short-term rental lawsuits. The lawsuits involved over 225 units in 35 buildings across Manhattan. More recently, in July 2022, the [Office of Special Enforcement announced another lawsuit](#) against an illegal STR operation in the Turtle Bay neighborhood of Manhattan. This lawsuit represents the first action taken against an illegal STR operation since the city [enacted an ordinance in 2020](#) to require STR booking services, such as Airbnb, to provide the city with a quarterly report of transactions associated with qualifying listings for which the booking service charged, collected or received a fee, including for each transaction the physical address of the STR, contact information for the STR host, the number of days the unit was rented, whether the whole unit or a portion of the unit was rented and other required information. The city also recently enacted [an ordinance to require the registration of all STRs](#) operating in the city, which will become effective in January 2023.

APPENDIX P

List of legislative history regarding short-term rentals from Vacation Rental Property Owners

VACATION RENTAL PROPERTY OWNERS' LEGISLATION HISTORY

2015 - 2016

LD 689 ~ Eliminate the sales tax exemption for casual rentals for fewer than 15 days a year
Definition of Vacation rental. "means a residential property that is rented for vacation, leisure or recreation purposes for a week or a month, and typically under 30 days but not for more than an entire summer or winter season, to a person who has a place of permanent residence to which the person intends to return". Title 22, Chapter 582.

LD 436 ~ Would limit vacation rentals focusing on health and safety standards on a level playing field to B&Bs or hotels.
Defeated

Also in 2015, towns such as Rockland and Cape Elizabeth began vacation home ordinances restricting rentals

2017

Supplemental budget would increase the lodging tax, which had recently been raised from 7% to 9%

LD 1675 ~ Clarify definitions in laws regarding the licensing of eating establishments and lodging places *Defeated*

2018 - 2019

A bill to create a registration process for vacation rental with an annual \$50 fee (from Hospitality Maine). Bill eventually was not drafted after facing strong opposition.

LD 209 ~ Prohibit Municipalities from prohibiting short-term rentals. Defined a short-term rental as a residential dwelling that is rented wholly or in part to no more than 4 transient guests for a period of less than 30 days. *Defeated*

LD 522 ~ Prohibit the imposition by municipalities of general restrictions on rents and rental properties. *Defeated. (of note: Hospitality Maine opposed the bill but used it as an opportunity to say the State's role should be focused on the registration of vacation rentals to insure the appropriate level of insurance is required)* Properties managed by VRPOME are required to have insurance.

LD 609 ~ Provide municipalities additional sales tax revenue from lodging sales/local option tax. *Defeated*

LD 1588 ~ Create a registration process and permits for vacation rentals. *Defeated*

2020 ~ Legislature was not in session and most of the efforts during this period of time were focused on the Governor's phased-in plan for reopening the hospitality industry and specifically vacation rentals, which are different since they can operate without personal contact. Quarantine specifics and best practices.

2021 - 2022

LD 681 ~ Resolve to establish a task force to study safe and stable housing in lodging facilities. *Died on adjournment*

LD 1337 ~ Increase affordable housing and reduce property taxes through an impact fee on vacant residences. *Defeated*

LD 1342 ~ Local Options tax on lodging. *Defeated*

LD 1397 ~ Maine State Housing to create a comprehensive rental registry. *Died on adjournment*

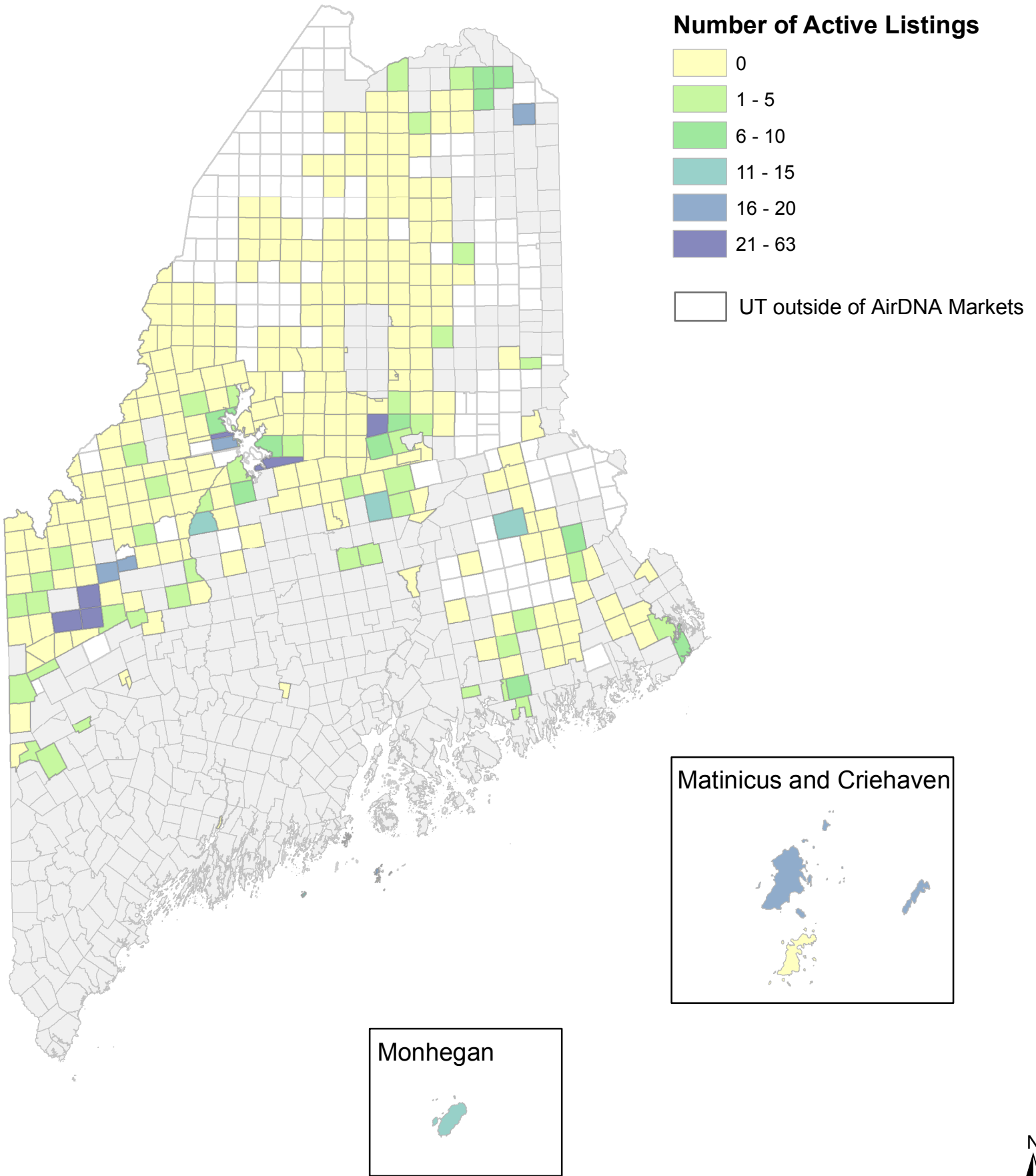
LD 1418 ~ Local option sales tax. *Defeated*

LD 1590 ~ Define commercial and noncommercial purveyors of accommodations for short-term rentals. *Defeated*

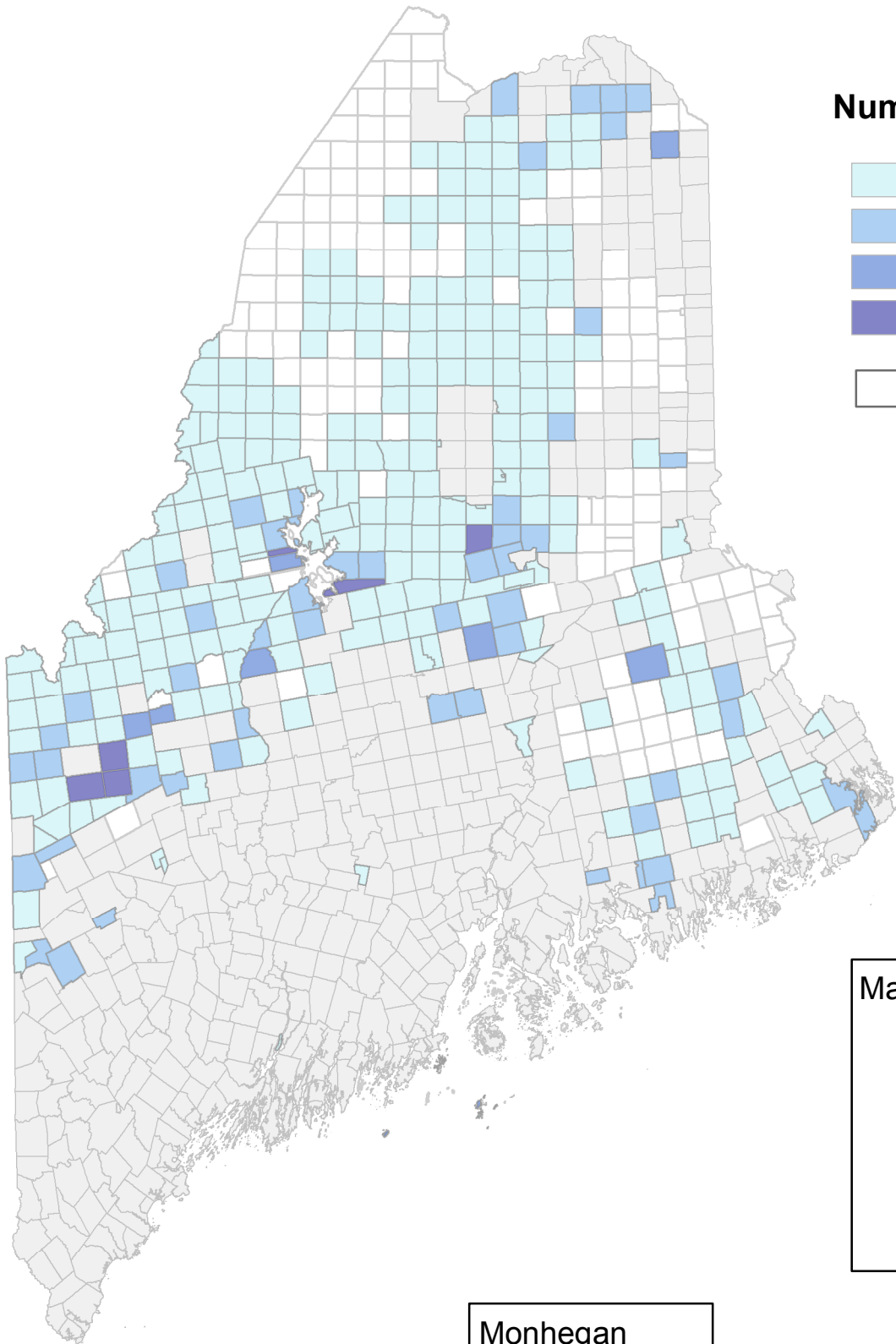
APPENDIX Q

Short-term rentals in the unorganized territories from AirDNA data

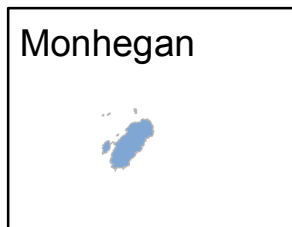
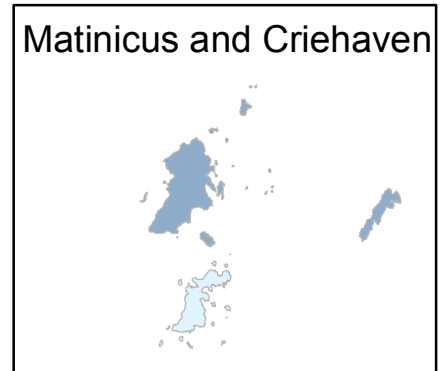
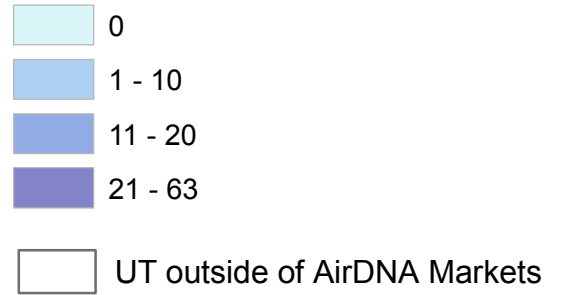
Short Term Rentals - Q4 2021



Short Term Rentals - Q4 2021



Number of Active Rentals



APPENDIX R

**State HOME Fund expenditures over 10-year period from
MaineHousing**

**MAINE STATE HOUSING AUTHORITY
STATE HOME FUND EXPENDITURES 2012-2021**

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
First-Time Homebuyers										
Single Family Advantage Program	2,360,500	2,643,000	3,752,000	4,053,000	3,703,000	3,297,000	2,012,500	368,000	356,953	-
Mobile Home Replacement Program	430,500	276,750	861,000	30,750						
Housing Counseling Program	9,059	21,259	30,145	25,917	23,271					
Existing Homeowner Assistance										
Foreclosure Prevention Programs	24,128	196,159	56,449	76,095	110,745	160,330	307,788	406,103	180,649	189,596
	2,824,187	3,137,168	4,699,594	4,185,762	3,837,016	3,457,330	2,320,288	774,103	537,602	189,596
Owners of Substandard Homes										
Home Repair Program (HARP)	3,632,102	3,796,423	3,598,728	2,771,670	1,915,843	844,360	1,619,818	76,666	75,049	70,721
Home Water Well Drought Relief Program					278,631	223,080	-	-	-	-
Elderly Hardship Grants/Aging in Place	150,277	340,438	340,288		257,500	-	15,198	293,854	284,534	229,625
HomeRetro Program					14,536	120,328	55,328	232,679	245,495	146,632
Weatherization Supplemental Repair Program						464,520		1,219,108	1,199,542	1,996,237
State Lead Program	112,858	119,674	273,784	198,175	84,508	20,473	328,158	243,519	158,178	221,293
Specialized Low Income Home Repair Programs	639,363	444,274 #	207,835	920,475						
	4,534,600	4,700,809 #	4,420,635	3,890,320	2,551,018	1,672,761	2,018,502	2,065,826	1,962,798	2,664,508
People who are Homeless										
Shelter Operating Subsidy	3,000,000	3,000,000	2,400,000	2,407,196	2,400,000	2,000,000	2,085,214	2,004,262	2,274,568	1,900,000
Shelter Operating - Incentive						825,005	624,995	300,000		
Homeless Advocacy Program									45,000	30,000
Youth Homeless Demo	14,490	13,072	7,439							
Family and Children Together			9,807							
Covid-19 Provider Hotel/shelter		53,200								
	3,014,490	3,066,272	2,417,246	2,407,196	2,400,000	2,825,005	2,710,209	2,304,262	2,319,568	1,930,000
People with Special Needs										
Supportive Housing Repair Program	1,401,581	1,697,258	562,959	160,420	429,152	65,000		306,679		
Supportive Housing	694,769	-	-							
HOUSE - Pilot Recovery Housing	173,920									
	2,270,270	1,697,258	562,959	160,420	429,152	65,000	-	306,679	-	-
Low Income Renters Needing Assistance										
Security Deposit Program	20,994	197,145	134,508							
Maine TBRA Assistance/Landlord Incentive STEP/TBRA	52,112		12,876							
Asylum Families Rental Assistance	303,735	205,050								
Family Development Accounts		50,000								
Landlord Incentive Fees	80,015									
Covid 19 STATE Rent Relief 2020		3,578,360								
	456,856	4,030,555	147,384	-	-	-	-	-	-	-
Housing Production & Preservation										
9% Tax Credit	503,362	1,169,401	1,292,902	655,394						
4% Tax Credit	1,027,387	664,500	-							
Multifamily Workouts	-	1,108,435	1,111,860	327,000	800,000	194,747	630,486	113,435		
New Housing Models demo	-	200,000	-							
Subdivision Program	585,000	112,500	-							
	2,115,749	3,254,836	2,404,762	982,394	800,000	194,747	630,486	113,435	-	-
Total Expenditures	15,216,152	19,886,898	14,652,580	11,626,092	10,017,186	8,214,843	7,679,485	5,564,305	4,819,968	4,784,104
Total Spent on New Housing Units (Prod + Supportive)	2,810,518	1,946,401	1,292,902	655,394	-	-	-	-	-	-
Percent of Total Spent on New Housing Units	18%	10%	9%	6%	0%	0%	0%	0%	0%	0%

APPENDIX S

**Short-term rental regulations feedback from Cape Elizabeth,
provided by Maine Municipal Association**

Short Term Rental (STR) regs
Feedback from Cape Elizabeth (CE) Town Planner Maureen O'Meara (MO), ph. 799-0115

Phone conversation with Anita Brosius-Scott

Friday June 17, 2022

*CE is happy to be of help to Camden. **Call Maureen O'Meara** with further questions. Camden's Homestay regs were modeled on Camden's.*

Q: Is there any refinement you'd consider if you were to re-draft or amend your STR regs?

A:

- The present iteration is a refinement. Original regs were adopted in 2012, with a primary goal of health, safety and welfare. CE came to realize that they also needed to address the loss of housing to STRs.
 - MO suggests that FIRST Camden needs to clarify our goals of the new regs.
 - If primary goal is expanding availability of homes and year-round rentals for housing, get that goal in writing and make it clear, then can talk about methods that have been adopted. Helps in public hearings etc. so people understand.
- MO worked on the new iteration of regs for 8 months. She worked with the CEO to craft the STR regs.
 - Included a much more elaborate implementation plan than any other type of new regs
 - Gave 3 months notice before implementing.
 - They put much more effort into it than they ever had
- The process required lots of public comments and meetings.
 - It helps to state UP FRONT the goals of the regulations, prior to public meetings. State what the rules are intended to accomplish.
 - There were lots of public comments. For example in a 3 hour meeting, 50% was used up in comment time, usually from people objecting to STR regs.
 - People who wanted STR regs typically did not make public comments.

Q: We (Camden) have instituted new zoning regulations that make it easier for property owners to create additional living units/accessory dwelling units on their property without requiring additional land area. The idea is to enable there to be more housing available. But, how can we prevent those new dwelling units from becoming STRs?

- CE's Accessory Dwelling Unit (ADU) regulations say that the renter must be someone that the owner has a personal relationship with (e.g. family member, nanny, gardener). This way they avoid the problem of renting to strangers.

Q: Did you hire a company to assist & to search and vet STR ads?

- Yes. They work with **Hamari**. Granicus is the other company. They went with the company that got back to them soonest! They are probably equally good.
- Hamari said that typically towns, when first instituting STR regs, are concerned about health and safety. Then after some time they realize that loss of housing availability is a big problem too so they have to tweak their regs.
 - This is what happened to CE. The 2021 regs are that tweak of the 2012 regs.
- STRs can only operate with the use of the internet. The company helps, scrapes 35 different sites, sorts out, provides a report to CEO and can even send the first violation letter.
- If somebody is operating without a permit they can provide the info.

Q: How many STRs did you have in town before the regulations came into effect? How many now?

- Verified 120 in town prior to changing regs to “No unhosted STRs”.
- They did require permits, and there were 50-something permits but over 100 properties were actually renting out; permit system was being abused.
- Now down to 25-30 but they do take 10-15 hours/week of staff time. However that’s a fraction of what it was before. Enforcement is time consuming, especially during the summer season.

Q: Tell me about your permits.

- This issue was “interesting.” Cost was \$50/permit.
- Council decided to increase the permit fee to \$500/year because they were spending so much time on it.
- CEO decided that permit applications should all come in January (less busy time). After the end of January, the fee is doubled to \$1,000. All the money goes into the fund.
- Given that some can make as much as \$10,000/week in rentals, there was significant incentive to cheat on the rules.
- Had a broader set of qualifications for resident, including drivers license, but due to the abuse – people finding ways to circumvent the intention of the qualifications – they decided they had to narrow it to using the state law and requiring a **homestead exemption**.
- An LLC cannot get a homestead exemption.
- People still find ways to circumvent the rules.
 - Will qualify for homestead exemption when getting permit, then put the property into an LLC.
 - An owner of a waterfront property won his neighbor’s property in a poker game (!), and qualified for the adjacent property carve-out.

Q: What about seasonal rentals and traditional seasonal portions of town, and what about people who need some additional income due to high taxes?

- There were 8-10 rentals used as seasonal rentals. Suggest designating the traditional seasonal rental areas as a carve-out (lakeshore? Some Bayview?)
- Taxes have increased; property ownership has become so unaffordable.
- Town wants to enable people to keep their property by renting to help them pay their taxes. If hosting rental in own home, OK. This is why they require the homeowner to have the homestead exemption.
- If renting home out and not there, time frame is capped at 6 weeks, about enough to cover taxes.
- If rented for 30 days or more, it is not considered a short-term rental.

Q: Other regs?

- Adjacent property: If you own an adjacent property, you can rent **if** you have the homestead exemption on your property and the property is under the same ownership, not an LLC – but only 6 weeks/year. LLC cannot get a homestead exemption.
 - They were having problems like the neighbors next door to a STR would get a knock on the door when renters couldn’t get in, or the lights weren’t on for them, or other issues. Neighbors don’t want to be concierge for the STR next door!
- “One week” can be as little as one day, that is, renting out for one day counts as 7 days.

- To get a permit, property has to be inspected. This usually happens twice, the second time to have the failed elements checked after being brought into compliance. Staff time.

Q: Have you had any lawsuits?

- No

Q: Are you pleased with the results of your new iteration of STR regs?

Yes.

- STRs went from 120 to 25-30.
- Getting a lot fewer complaints of people behaving badly.
- Some people have stopped doing STR
- Some people have sold.
- They still get “prospector” calls but the regs dissuade them (from investing for STR)

	Permitted Short Term Rentals	Rentals per 7 days	Rentals per year	Occupancy Requirements	Rental Requirements	Review Procedure	Submission Requirements	Standards	Suspension & Revocation of Permit	STR License Limitations	Lodging Establishments Exempt / definitions
Cape Elizabeth	<u>Only 1 of below for calendar year is allowed</u> <u>Primary Residence Hosted -</u> (Property owner is in residence.) Must be in primary residence & not in a separate dwelling on property.	2	365	(2) tenants per bedroom, plus two additional tenants for no more than one (1) additional sleeping space.	<u>STR Permit required</u> (Fee-As of 2022, STR Permit fee is determined in Town Fee Schedule) <u>Advertising -</u> not permitted w/o STR permit <u>Rental Intensity -</u> Any rental less than 30 days is STR and needs STR permit.	1 - CEO will issue STR permit 2 - CEO provides STR application to applicant 3 - CEO responsible for completeness of form 4 - 1st time applicant needs site visit by CEO. Renewals checked every 5 years. 5 - CEO reviews app for compliance to STR standards	1- Location	1- Smoke Alarms 2- Carbon Monoxide Alarms	1- Complaint 2- First Substantiated Complaint	Only 1 of the PERMITTED SHORT-TERM RENTAL types is allowed.	
	<u>Primary Residence Unhosted</u> (Property owner is not in residence.) Must be in primary residence & not in a separate dwelling on property.	1	42	LOTS <= 30K - 8 tenants max, plus 4 parking spaces.		4 - 1st time applicant needs site visit by CEO. Renewals checked every 5 years. 5 - CEO reviews app for compliance to STR standards	2- Contact person/owner responsible	3- Portable Fire Extinguishers 4- Emergency Lighting 5- Floor plan for above	3- 2nd Substantiated Complaint		
	<u>7 Acres Plus Short-Term Rental -</u> (Primary or non-primary residence, hosted or un-hosted.) Lot size must be 7 acres or more in size.	1	182		<u>Registration Record -</u> Owner to keep all rental data and upcoming reservations - must show town at any time requested.		3- Availability - when STR is available - any change, contact CEO	6- Building Evacuation Plan 7 -Sanitary Waste Disposal 8- Parking	4- 3rd Substantiated Complaint 5 - Appeal		
	<u>Short Term Rental Adjacent -</u> (Non-primary building on primary residence lot or abutting lot to primary residence.)	1	105		<u>Multi-family-</u> Dwellings must be in common ownership for STR to occur <u>Multi-plex units-</u> No STR on property containing 5 or more dwelling units		4- Proof that Standards have been met	9- Rental Agreement Addendum (town not responsible for enforcement of this) 10- Limit on Rental Occupancy (see Occupancy Requirements) 11- Response Requirement 12- Good Neighbor Conduct	6- Effective Date of STR permits		
				<u>A lesee -</u> may not have a STR							
Kennebunkport	<u>Short Term Rental - (non-owner-occupied dwelling)</u> A legally existing residential dwelling unit rented < 30 consecutive days. EXCLUDES - motels, hotels, bed and-breakfasts, inns, seasonal rental accommodation complexes, and <u>residential rental accommodations.</u>	N/A	1 rental for < 30 consecutive days	2 people per 1 bedroom, plus 2 additional people per house.	1 - STR License Required 2 - Renew before 12/31. Late entries are considered a new application. 3 - Select Board creates fees 2 tiers. 1-3 BRs and 4+ BRs. 4 - STR license - not transferable to new property owner via sale. <u>Transfer of land to new owner</u> can result in a permitted transfer of STR license.	1 - Application completeness 2 - Application fee 3 - Town Clerk can issue STR license with CEO approval 4 - Inspection by CEO - can do at any time / <u>must do once every 5 years</u> 5 - Transitional provisions for licensing of pre-existing STR	1- Location 2- Contact person/owner responsible 3- Renewals - owners cannot have had any transfers of license take place 4- Proof that Standards have been met	Code Compliance- Smoke alarms Carbon Monoxide alarms Portable Fire Extinguishers Floor Plan - location of alarms & extinguishers Sanitary Waste Disposal Parking Good Neighbor Guidelines	May be revoked by select board based on hearing. 1 - Violations of STR ordinance 2 - Complaints of STR 3 - Suspension or revocation of license 4 - Appeal	STR License Limit- 1- Set by Select Board each year - based on percentage of total town dwellings.	<u>Prohibited short-term rentals.</u> (1) Such person has not secured or maintained a valid short-term rental license for the premises; or (2) The accommodations are an accessory apartment constructed or permitted after November 3, 2009, or a recreational vehicle, trailer or tent.

Occupancy
Limits

Lodging establishments exempt - hotels, motels, bed-and-breakfasts, inns, seasonal rental accommodation complexes, and residential rental accommodations.

Residential Rental Accommodation (owner-occupied dwelling)

---no more than two bedrooms in a legally existing dwelling or dwelling unit.
 ---rooms rented may be for either short-term or long-term rental to a roomer who may be unrelated to the owner or occupant of the unit
 ---individual rooms shall be rented no more than once per week (Monday through Sunday)

5 - STR license - for said dwelling only.
 6 - No advertising without STR license.
 7 - Registration records - kept by owner - must be able to submit to town as needed.
 8 - STR Notice - Must be placed on STR near entry to unit.

Dwelling Unit
 One or more rooms arranged for complete, independent housekeeping purposes with space for living and sleeping; space or facilities for eating or cooking; and provisions for sanitation. RVs are not dwelling units.

Bar Harbor	Vacation Rental - 1 (VR-1) Primary residence - a rented portion or entire dwelling of primary residence or rental of a dwelling unit on primary residence lot.	MIN-2 nights MAX-< 30 days	Did not see- maybe missed	1-STR - Registration required 2-Emergency information sheet - must be posted (inside front door) of rental unit (Reg #, STR address/how to contact emergency/how to file safety complaint with town/owner info/local contact info if different) 2A-Registration # - posted on all advertising	1-STR Registration- CEO reviews new requests and then 1 time every 3 yrs	1-CEO provides forms to submit for registration & approves 2-Non-refundable fee needed to apply 3-Renewals must be applied for also	<u>Chapters of the NFPA 101 Life Safety Code as applicable</u> (a) Chapter 4, General (b) Chapter 6, Classifications of Occupancy and Hazard of Contents (c) Chapter 7, Means of Egress (d) Chapter 9, Building Service and Fire Protection Equipment (e) Chapter 24, One- and Two-Family Dwellings (f) Chapter 30/31, New and Existing Apartment Buildings	Violations, Penalties & Fines 1 - Violation- Operation without registration 2 - Violation of registration a-Suspension & revocation of registration Suspension-- Minor violation Suspension-- Major violation b-Revocation 3 - Appeals	2 per Primary Residence
	Vacation Rental - 2 (VR-2) Not primary residence - a dwelling rented to person or to a group.	MIN - 4 days MAX < 30 days		3-Property taxes/W&S fees must be up to date before STR registration issued. 4-Pass full safety inspection 5-No people may be housed outside of dwelling (tents, etc.)		4-CEO has Wait List (VR-2) - first on, first reviewed 5-New applications (once issued) CEO alerts any abutters within 50 feet of outer boundary			9% of total dwelling units in Bar Harbor (town wide cap) --- CHECK --- limit per owner?

6-Trash removed weekly
7-VR-1 - owner shows proof of primary residence (tax return/driver license)

8-If property changes owners, new owner may keep ST registration until end of its term. (5/31/xxxx)
(p.21-Land Use Ord Amend for STR)

6-STR registration-owner still needs to get other permits as needed for other functions

2- Chapter 70, Electrical Installations, of the Bar Harbor Municipal Code

APPENDIX T

**Information on the lodging tax, provided by Office of Policy and
Legal Analysis**

Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

October 17, 2022

Lodging Tax¹

The Sales and Use Tax Law is found in Title 36 of the Maine Revised Statutes in Part 3: Sales and Use Tax. Title 36, section 1811 imposes sales and use tax on the value of rental of living quarters at a higher rate (currently 9%) than the generally applicable sales tax rate (5.5%).

The Maine Sales and Use Tax Law imposes a tax on “rental of living quarters in any hotel, rooming house, tourist or trailer camp” including casual rentals. Every person who owns, manages or operates, in the regular course of business or on a casual basis, a hotel, rooming house, tourist or trailer camp or who collects or receives rental payments on behalf of the owner, manager or operator, must register for and collect Maine sales tax on the rentals. A property does not have to be advertised or held out to the public at large in order for rentals of the property to be taxable.

- See 36 MRSA section 1811:
<https://legislature.maine.gov/legis/statutes/36/title36sec1811.html>.
- See 36 MRSA section 1752, subsections 4, 6, 12 and 19 for definitions
<https://legislature.maine.gov/legis/statutes/36/title36sec1752.html>.

Exemptions:

- Casual rentals for fewer than 15 days. In most cases, a person who has only one rental unit, such as a room, a single camp or condominium unit for rent and rents it for fewer than 15 days each calendar year is not considered a “retailer” and is not required to collect sales tax on those rentals. See 36 MRSA section 1764:
<https://legislature.maine.gov/legis/statutes/36/title36sec1764.html>.

However, if the property has been placed in the hands of a real estate agent or other person engaged in the business of renting or managing rentals of living quarters, that agent must collect and report sales tax on the rental, regardless of the length of time the property is rented.

- Occupancy for 28 days or more. Rent charged to any person renting continuously for 28 days or more in the same hotel, rooming house, tourist or trailer camp is exempt from sales tax if:
 - The living quarters are a person’s primary residence;
 - The rental is to an individual who is residing away from the individual’s primary residence in connection with education or employment; or
 - The living quarters are rented to a person whose employees use them in connection with their employment. (See 36 MRSA section 1760, subsection 20:
<https://legislature.maine.gov/legis/statutes/36/title36sec1760.html>.)

The application of the sales tax on short-term lodging rentals goes back to 1959. Prior to 2005, casual sales were not subject to the sales tax. “Casual sale” is defined in 36 MRSA section 1752, subsection 1-D; generally, “casual sale” means rentals which are not in the regular course of business.

¹ <https://www.maine.gov/revenue/sites/maine.gov/revenue/files/inline-files/IB32RentalLivingQuarters%2020171101.pdf>

1-D. Casual sale. "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by the person making the sale. "Casual sale" includes transactions at a bazaar, fair, rummage sale, picnic or similar event by a civic, religious or fraternal organization that is not a registered retailer. The sale by a registered retailer of tangible personal property that that retailer has used in the course of the retailer's business is not a casual sale if that property is of like character to that sold by the retailer in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which a retailer sells tangible personal property or a taxable service on behalf of the owner of that property or the provider of that service.

2005:

PL 2005, c.12 (General Fund Biennial Budget Bill) provided that a sales tax must be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp with the exception of rental of living quarters when that rental is for fewer than 15 days each calendar year.

PL 2005, c. 218 (DAFS/MRS omnibus tax bill) provided that a person who owns property and offers for rental more than one property in the State during the calendar year is liable for collecting tax with respect to the rental of each unit regardless of the number of days for which it is rented.

2018:

PL 2017, c. 375 (DAFS/MRS omnibus tax bill) expands the provision for sellers required to register to collect and report sales taxes to include online real property rental platforms and expands definitions to facilitate administration. The law defines "room remarketer" and "transient rental platform." Again, regardless of the number of days for which it is rented, if it is a "room remarketer" (e.g. Expedia) or "transient rental platform" (e.g. VRBO or Airbnb), they must collect the sales tax.

11-B. Room remarketer. "Room remarketer" means a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp.

20-C. Transient rental platform. "Transient rental platform" means an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.

APPENDIX U

**Recent legislative proposals related to short-term rentals, provided
by the Office of Policy and Legal Analysis**

Commission to Increase Housing Opportunities in Maine by Studying
Land Use Regulations and Short-term Rentals

Oct. 17, 2022 meeting

Current law

[“Lodging place” licensing by DHHS](#)

“Lodging places” need to be licensed by the Department of Health and Human Services. “Lodging place” means a fixed structure, or any part of a structure, used, maintained or advertised as a place where sleeping accommodations are furnished that offers stays that are temporary in nature and consist of fewer than 183 days in the aggregate per year.

Includes: hotels, motels, bed and breakfasts, inns and properties under common management at the same location where 4 or more rooms, cottages or condominium units are available.

Does not include: vacation rentals, youth camps, dormitories, fraternity/sorority houses, etc.

Exceptions: private homes when not more than 5 rooms are let in that home; cottages and rooms when not more than 3 rooms or cottages are let.

[“Lodging house” licensing by municipalities](#)

Municipalities can enact ordinances for a “lodging house.”

“Lodging houses” means a house where lodgings are rented, but *does not include*:

- A. A house where lodgings are rented to fewer than 5 lodgers; (“lodger” does not include persons within the 2nd degree of kindred to the person operating the lodging house)
- B. The dormitories of charitable, educational or philanthropic institutions; or
- C. The emergency use of private dwelling houses at the time of conventions or similar public gatherings.

Recent legislative proposals relating to short-term rentals

126th Legislature

[LD 330, “An Act To Require All Lodging Places To Be Licensed by the State” \(Sen. John Patrick\)](#)

- Removes exemption for private homes (when not more than 5 rooms are let in that home) and cottages and rooms (when not more than 3 rooms or cottages are let) from requiring a license as a lodging place
- Removes authority for municipality to license a “lodging house”
 - Licensing would be done by State

Commission to Increase Housing Opportunities in Maine by Studying
Land Use Regulations and Short-term Rentals

Oct. 17, 2022 meeting

127th Legislature

[LD 436, “An Act To Require Providers of Short-term Lodging To Be Licensed by the State” \(Sen. John Patrick\)](#)

- Specifies that “lodging place” includes a property under common management where 4 or more rooms, cottages or condominium units are rented to the public, or where any number of rooms are rented to the public for overnight occupancy.”
- *“Overnight occupancy” means rental by the owner and occupation by the public of a lodging place for a period of less than 7 days for a fee.*

129th Legislature

[LD 1588, “An Act To Create a Registration Process and Permits for Vacation Rentals” \(Rep. Zeigler\)](#)

- Register with Department of Health and Human Services (DHHS) and obtain permit before “conducting, controlling, managing or operating a vacation rental for compensation, directly or indirectly.”
 - “Vacation rental” means *a residential property that is rented for vacation, leisure or recreation purposes for a day, a week or a month, and typically under 30 days but not for more than an entire summer or winter season, to a person who has a place of permanent residence to which the person intends to return.* (22 MRSA §2491, sub-§17).
- Permit cost \$50
- Applicant must provide proof of appropriate insurance from an insurance carrier
- Must be displayed in a place readily visible to customer or other persons using vacation rental
- Not assignable or transferable
- DHHS must issue within 30 days if vacation rental complies with law and DHHS rules
- DHHS must issue conditional permit, good for 90 days, if initial applicant is found not to be in compliance, unless conditions are found that present a serious danger to the health and safety of the public
- DHHS shall establish and maintain a registry of vacation rentals for which a person has sought a permit. Information must include, but isn’t limited to, ownership, violations and the resolution of those violations
- Fine for operating without permit: \$25-\$200, 1st offense; \$200-\$500, 2nd or subsequent offense
 - Each day any person operates without permit is separate offense
- LD 1588 makes it so private homes (when not more than 5 rooms are let in that home) and cottages and rooms (when not more than 3 rooms or cottages are let) are *vacation rentals* and require a permit as described above.

APPENDIX V

**Information on distribution of Housing Choice Vouchers in Maine,
provided by MaineHousing**



October 15 2022

TO: Commission to Increase Housing Opportunities in Maine

FROM: MaineHousing, Communications and Planning Dept.

RE: Distribution of Housing Choice Vouchers in Maine

The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

Distribution of Vouchers

A total of 14,389 Housing Choice Vouchers are assigned by HUD to Maine. Housing choice vouchers are administered locally by public housing agencies (PHAs) in individual communities. In towns where there is no public housing agency, MaineHousing serves as that community’s PHA, and its jurisdiction represents around 1/3 of the state’s total vouchers. Each PHA independently receives federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer their voucher programs. Source:

https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard.

Vouchers are distributed among PHA’s as follows:

Auburn Housing Authority	590
Augusta Housing Authority	471
Bath Housing Authority	260
Biddeford Housing Authority	200
Brewer Housing Authority	133
Brunswick Housing Authority	664
Caribou Housing Authority	233
Ellsworth Housing Authority	377
Fort Fairfield Housing Authority	139
Housing Authority City of Bangor	449
Lewiston Housing Authority	1,385
Maine State Housing Authority	4,484
Old Town Housing Authority	209
Portland Housing Authority	2,152
Presque Isle Housing Authority	155
Sanford Housing Authority	593
South Portland Housing Authority	389
Housing Authority City of Westbrook	1,011
Van Buren Housing Authority	101
Waterville Housing Authority	394
Grand Total	14,389

Vouchers Versus Budgeted Resources:

A perennial concern by lawmakers and others is that vouchers are going unused, despite the extensive waiting lists that exist. The primary reason for this is that the state does not receive adequate funding from HUD to pay for every voucher, and in cases where a region's rents are relatively high (such as Maine), fewer vouchers can be covered with available funding, leaving a portion of a state's vouchers unassigned.

This is illustrated by MaineHousing's situation. MaineHousing has a contract with HUD for 4,462 units. MaineHousing is responsible for leasing at least 98% of the contracted units or spending 98% of the funds provided by HUD. Like other PHA's in Maine, we are currently on target to meet that spending level.

For 2022 MaineHousing was allocated \$31,811,724 for its vouchers. Based on an average per unit cost of \$710, we are able to support 3,733 vouchers per month. We currently have leased 3,639 vouchers and have issued 312 searching vouchers for families trying to locate housing.

It is often extremely difficult for voucher holders to locate available units, primarily due to the general shortage of apartments in the state, but also due to the inability of payment standards to keep up with rental costs. Payment Standards can be set between 90% and 110% of Fair Market Rents as established by HUD. Landlord reluctance is also a factor.

How the Program Works:

A family that is issued a housing voucher is responsible for finding a suitable housing unit of their choice where the owner agrees to rent under the program. This unit may include the family's present residence. Rental units must meet minimum standards of health and safety, as determined by the PHA.

A housing subsidy is paid to the landlord directly by the PHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program. Under certain circumstances, if authorized by the PHA, a family may use its voucher to purchase a modest home.

When the voucher holder finds a unit that it wishes to occupy and reaches an agreement with the landlord over the lease terms, the PHA must inspect the dwelling and determine that the rent requested is reasonable.

The PHA determines a payment standard that is the amount generally needed to rent a moderately-priced dwelling unit in the local housing market and that is used to calculate the amount of housing assistance a family will receive. However the payment standard does not limit and does not affect the amount of rent a landlord may charge or the family may pay. A family that receives a housing voucher can select a unit with a rent that is below or above the payment standard. The housing voucher family must pay 30% of its monthly adjusted gross income for rent and utilities, and if the unit rent is greater than the payment standard the family is required to pay the additional amount. By

law, whenever a family moves to a new unit where the rent exceeds the payment standard, the family may not pay more than 40 percent of its adjusted monthly income for rent.

Specialized Voucher Programs

Within the Housing Choice Voucher program there are a number of specialized forms of vouchers that are set aside for specific types of households. These include disabled and elderly populations, people experiencing homelessness, families with young children and others.

In addition, many housing choice vouchers are permanently associated with particular units in affordable housing projects. These “project-based vouchers” are awarded as part of the initial financing for a project by public housing authorities to provide ongoing subsidy for these units, allowing those units to be rented by people at an even lower level of income than would otherwise be possible.

APPENDIX W

Information on evictions from Pine Tree Legal Assistance

PTLA Case Work

Maureen Boston
October 6, 2022

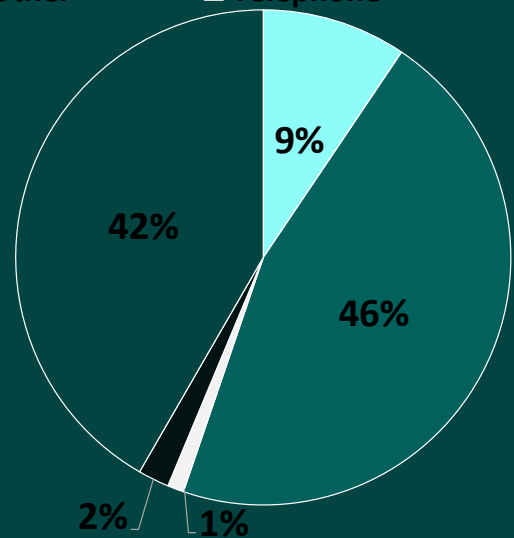
Services and Access

34% Full Representation

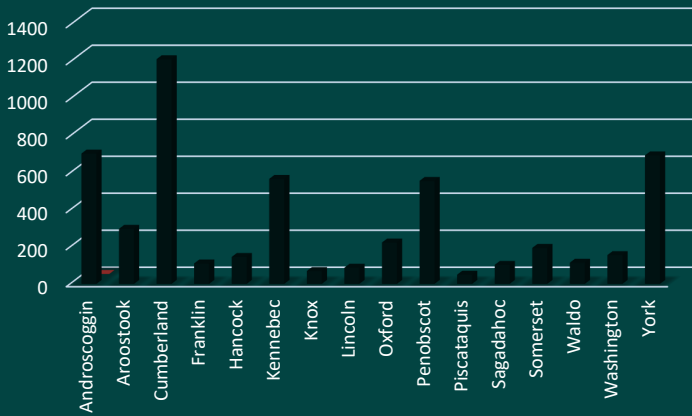
97% Favorable Outcomes

\$3.7 million in debts avoided or judgments awarded

■ Court ■ Call Center ■ Walk in
■ Other ■ Telephone



Pine Tree Clients



82% below 125% of Federal Poverty Level

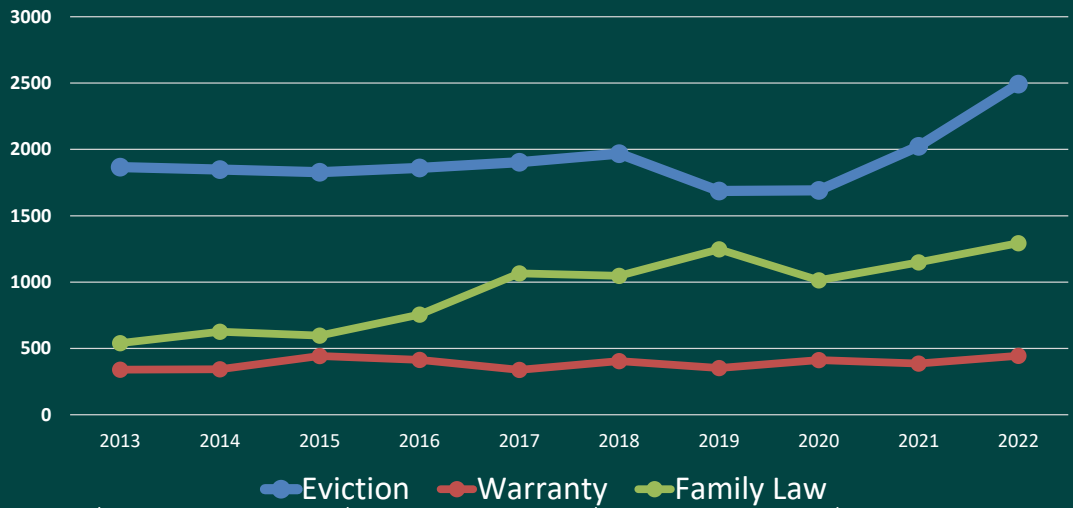
68% Women

14% People of Color

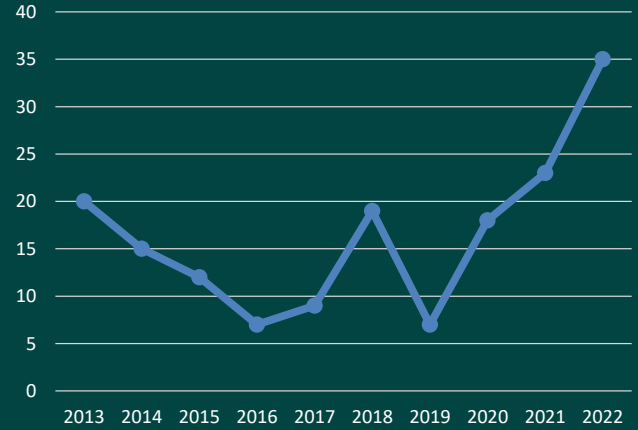
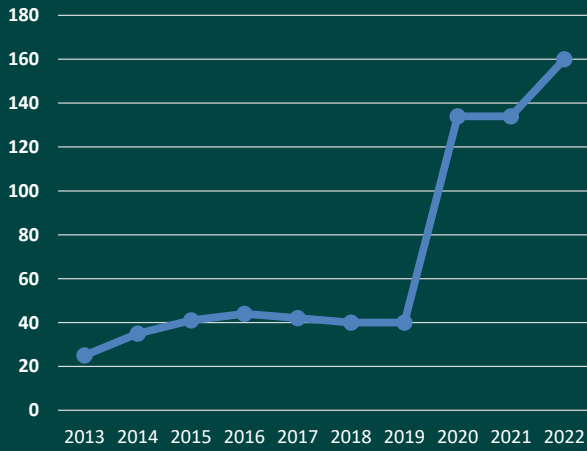
10% Primary Language Other Than English



Chronic Issues



Emerging Issues



Rent Increases

Used Cars

	Stated Reason for Eviction														Total
	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Sept		
Lease No NTQ given	5	2	2	3	10	4	12	6	8	8	2	8	9	79	
Lease no cause	8	8	3	6	5	7	12	6	12	11	9	7	4	98	
Lease nonpayment	19	13	25	12	17	15	29	19	23	24	12	30	30	268	
Lease nonrenewal	9	4	7	5	5	6	7	11	14	7	8	11	7	101	
Lease violation	26	20	21	8	31	18	28	17	22	21	17	23	31	283	
TAW 30 day cause listed	13	14	9	7	22	9	14	7	16	24	24	17	15	191	
TAW No NTQ given	14	4	20	7	18	7	11	6	20	20	10	18	12	167	
TAW no cause	74	44	53	46	49	37	44	53	97	81	52	67	63	760	
TAW nonpayment	30	23	16	22	37	20	23	12	20	20	24	37	29	313	
TAW other 7 day cause	11	8	7	3	12	1	9	2	9	11	4	8	8	93	
Total:	209	140	163	119	206	124	189	139	241	227	162	226	208	2353	
Lease	67	47	58	34	68	50	88	59	79	71	48	79	81	829	
TAW	142	93	105	85	138	74	101	80	162	156	114	147	127	1524	

	Secondary Reason for Eviction														Total
	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Sept		
Change in ownership	19	11	12	9	16	10	16	16	26	19	12	7	13	186	
LL behavior	14	2	3	1	12	6	13	4	14	21	12	14	13	129	
LL/T disagreement	9	6	14	2	10	2	9	9	16	17	8	13	12	127	
Lease violation	17	3	9	6	7	1	6	4	4	5	4	10	5	81	
No Additional Reason	84	81	80	74	111	73	92	71	126	114	89	130	112	1237	
Nonpayment	24	3	11	3	8	6	12	4	12	16	10	15	17	141	

renovations of unit/building	1	3	5	5	4	1	9	5	10	9	10	7	4	73
Rent being increased	3	2	1	2	1	2	2	2	5	2	0	0	1	23
Tenant behavior	23	21	20	16	31	21	19	20	21	18	12	24	22	268
Unlawful discrimination	4	1	0	0	0	0	6	1	2	2	1	3	5	25
Warranty Retaliation	11	7	8	1	6	2	5	3	5	4	4	2	4	62
Total:	209	140	163	119	206	124	189	139	241	227	162	225	208	2352

Primary reason where secondary reason was nonpayment														
	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Sept	Total
Lease No NTQ given	0	0	0	0	2	1	2	0	0	1	1	4	2	13
Lease no cause	0	0	0	0	0	0	0	0	1	1	0	0	0	2
Lease nonpayment	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Lease nonrenewal	2	0	0	0	0	0	0	1	0	2	0	0	0	5
Lease violation	0	0	0	0	0	2	0	0	1	2	2	0	3	10
TAW 30 day cause listed	1	1	0	1	0	1	2	1	2	4	4	1	2	20
TAW No NTQ given	1	0	5	0	1	1	1	1	1	1	0	5	1	18
TAW no cause	18	0	4	2	4	1	3	1	4	4	3	2	7	53
TAW nonpayment	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TAW other 7 day cause	2	2	2	0	1	0	4	0	3	1	0	3	2	20
Total:	24	3	11	3	8	6	12	4	12	16	10	15	17	141

Secondary reason where primary reason was no cause														
	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Sept	Total
Change in ownership	11	5	7	6	6	5	10	10	19	9	5	4	6	103
LL behavior	8	0	1	1	4	3	2	2	7	11	6	8	6	59

LL/T disagreement	4	3	4	0	2	0	4	5	3	6	2	3	5	41
Lease violation	0	0	0	0	0	0	0	1	1	2	0	1	0	5
No Additional Reason	29	33	29	29	29	23	27	28	54	46	30	49	38	444
Nonpayment	18	0	4	2	4	1	3	1	5	5	3	2	7	55
renovations of unit/building	0	3	2	3	1	0	2	4	6	4	6	4	3	38
Rent being increased	1	2	1	0	0	0	1	1	5	2	0	0	0	13
Tenant behavior	4	4	3	4	1	3	2	4	6	5	5	2	0	43
Unlawful discrimination	0	0	0	0	0	0	2	1	1	1	1	0	0	6
Warranty Retaliation	7	2	2	1	2	1	3	2	2	1	3	1	2	29
Total:	82	52	53	46	49	36	56	59	109	92	61	74	67	836
	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	2022 Mar	2022 Apr	2022 May	2022 June	2022 July	2022 Aug	2022 Sept	Total
% nonpayment	34.92823	27.85714	31.90184	31.09244	30.09709	33.06452	33.86243	25.17986	22.82158	26.43172	28.39506	36.28319	36.53846	30.68423
% no cause	39.23445	37.14286	34.35583	43.69748	26.21359	35.48387	29.62963	42.44604	45.22822	40.52863	37.65432	32.74336	32.21154	36.46409

APPENDIX X

**Memorandum from Maine Municipal Association on the collapse of
the rental and emergency shelter assistance program**



Maine Municipal Association

60 COMMUNITY DRIVE
AUGUSTA, MAINE 04330-9486
(207) 623-8428
www.memun.org

To: Sen. Hickman, Rep. Roeder, and distinguished members of Commission to Increase Housing Opportunities

Fr: Commissioner, Rebecca J. Graham, Legislative Advocate, MMA

Re: Collapse of Rental and Emergency Shelter Assistance Program

Date: October 27, 2022

Maine's municipalities are facing an entirely preventable humanitarian crisis that will also impact 121 communities and over 8, 578 households. The sudden closure of the Emergency Rental Assistance and Shelter program is not simply a federal funding issue. In late October, Maine Housing notified administrating agencies that program funding would not likely be available for November. While it now appears funding is likely to be available to carry households through November, when those funds are ultimately exhausted, the need for housing for those families does not disappear. In addition to the long-term focus to date of this Commission, there are tangible recommendations that could be made not only to address this issue, but to make sure that such a crisis does not occur again.

While MMA understands there is an effort to receive additional federal funding to extend the program, if not extended or replaced, those effected individuals will simply face being unhoused during Maine's coldest period should a permanent solution not be found. Any extension needs to include a plan to ensure tenants are prepared for this.

This committee could recommend the extension of the ERA program, but also that any future collapse of that program provide a solid plan for not only communicating to Maine Housing partner organizations but also the tenants themselves.

Many of these families are currently in rental housing or hotels with incomes or rent payments that exceed the established limits on General Assistance maximums. Applying for General Assistance funds is their only option. While some communities have charters that allow a payment over and above that State of Maine established maximum, the vast majority cannot. Those currently housed families will be unhoused by State of Maine policy and lack of response to market forces.

The Commission could recommend that the State limit on all emergency rental assistance caps be raised to match market and salary reality and provide greater General Assistance flexibility. Additionally, the Commission could also suggest the Legislature consider 100% reimbursement for expenditures for these emergency situations while encouraging more landlords to take on GA tenants based on fair rent. Additionally, the Governor could declare a state of emergency on this issue and increase the reimbursement immediately. This is an immediate need that cannot be solved by development.

General Assistance applications must be processed within 24 hours. If an applicant cannot get assistance in this timeframe, they may apply through the Department of Health and Human Services for assistance. However, if an application is submitted to the State instead of the municipality, it is considered a failure of the municipality and they are billed for the administration of the application and required to pay 100% of the assistance with no reimbursement.

When MaineHousing runs out of funds, Bangor, Portland, South Portland, Lewiston, Caribou and Farmington will have 24 hours to process 2,800 possible applications for rental or emergency shelter payments or face penalties and additional fees for a foreseeable problem not of their making. If 2,800 individuals were unhoused at once because of natural disaster, even in only a handful of communities, the state would not charge a penalty or fee to a community to assist with administrative paperwork.

Municipalities have not created this administrative crisis. This Commission should consider either shifting the administrative burden for this program shift back to MaineHousing or removing the municipal reimbursement penalties and administrative fees for individuals who apply through the State of Maine portal.

I am attaching a spreadsheet that provides the number of households currently receiving emergency rental assistance by municipality. I hope this will shed some light onto the impact of unhousing these families in your own communities. For instance, Bangor's 944 households represent 1,598 individuals. If that formula is applied to the rest of this household level data, there are potentially 14,484 individuals —just under the population of the City of Augusta —facing eviction as a result of this crisis.

I feel like this Commission is able to make recommendations to help these families in this incredible moment of need and prevent such a problem from occurring in the future. I hope Commissioners will consider some of the statutory and policy problems highlighted here and consider additional recommendations to address the immediate needs that building alone simply cannot address.

MUNICIPALITY	ERA Households
AUBURN	306
AUGUSTA	150
BANGOR	944
BATH	80
BELFAST	52
BERWICK	16
BIDDEFORD	224
BREWER	172
BRIDGTON	26
BRUNSWICK	77
BUCKSPORT	14
BUXTON	12
CALAIS	17
CAMDEN	29
CAPE ELIZABETH	12
CARIBOU	100
CARMEL	17
CASCO	17
CLINTON	14
CORINNA	18
CORINTH	23
DEXTER	46
DIXFIELD	14
DOVER FOXCROFT	28
EAST MILLINOCKET	15
EASTON	10
EDDINGTON	16
ELLSWORTH	67
FAIRFIELD	54
FALMOUTH	16
FARMINGDALE	10
FARMINGTON	124
FORT FAIRFIELD	47
FORT KENT	54
FREEPORT	81
FRYEBURG	10
GARDINER	23
GLENBURN	24
GORHAM	49
GRAY	19
GREENE	14
GUILFORD	14
HAMPDEN	32
HANCOCK	38
HERMON	19
HODGDON	10

HOLDEN	16
HOULTON	77
JAY	42
KENDUSKEAG	25
KENNEBUNK	18
KITTERY	44
LAGRANGE	18
LEEDS	11
LEVANT	18
LEWISTON	726
LIMESTONE	31
LINCOLN	53
LINCOLNVILLE	19
LISBON	61
LISBON FALLS	22
LIVERMORE FALLS	41
MACHIAS	25
MADAWASKA	43
MADISON	27
MECHANIC FALLS	10
MEXICO	44
MILFORD	33
MILLINOCKET	49
MILO	38
NAPLES	16
NEW GLOUCESTER	11
NEWPORT	47
NORTHPORT	10
NORWAY	45
OAKLAND	21
OLD ORCHARD BEACH	54
OLD TOWN	147
ORONO	105
ORRINGTON	21
OXFORD	19
PALMYRA	19
PITTSFIELD	37
POLAND	17
PORTER	11
PORTLAND	872
PRESQUE ISLE	258
RICHMOND	10
ROCKLAND	92
ROCKPORT	39
RUMFORD	96
SABATTUS	29
SACO	99

SANFORD	197
SCARBOROUGH	160
SKOWHEGAN	112
SOUTH BERWICK	11
SOUTH PARIS	53
SOUTH PORTLAND	410
SPRINGVALE	22
STANDISH	23
THOMASTON	14
TOPSHAM	24
TURNER	11
Unknown	10
VAN BUREN	37
VASSALBORO	13
VEAZIE	19
WALDOBORO	16
WARREN	27
WASHBURN	16
WATERVILLE	191
WELLS	31
WESTBROOK	219
WILTON	69
WINDHAM	56
WINSLOW	40
WINTERPORT	10
WINTHROP	15
YARMOUTH	28
YORK	24

APPENDIX Y

**Overview of recent changes to housing laws from 130th Legislature,
provided by the Office of Policy and Legal Analysis**

September 13, 2022

LD 1673

P.L. 2021, ch. 754

“An Act To Establish Fair Housing Goals in Certain Communities in Maine”

LD 1673 modifies the Growth Management Act by:

- 1) Changing the definition of “Service center community” from major substantive rules (requiring legislative review) to routine technical (not requiring legislative review).
- 2) Requiring the Department of Agriculture, Conservation and Forestry (DACF) to, beginning in 2023 and every 5 years, classify service center communities in the State into at least 4 categories based on a method that DACF establishes by rule. Both DACF and the Department of Economic and Community Development (DECD) must post the list on their websites.
- 3) Requires DACF, Maine State Housing Authority (MaineHousing) and DECD to share data useful in assessing and determining growth management policies and standards.
- 4) Amends the inventory and analysis section of the Growth Management Act by ensuring that in a service center community at least 10% of the housing stock is affordable housing
- 5) It also requires that DACF submit reports to the committee with jurisdiction over housing matters (in addition to natural resources matters and appropriations and financial affairs matters). It specifies that each committee may report out legislation.
- 6) It also requires by Feb. 15, 2023 that DACF submit report to committee with jurisdiction over housing matters detailing where population growth is occurring and projected to occur. That Committee can report out a bill.

Definitions relevant to LD 1673

14-A. Service center community. "Service center community" means a municipality or group of municipalities identified by the department according to a methodology established by rule that includes 4 basic criteria, including level of retail sales, jobs-to-workers ratio, the amount of federally assisted housing and the volume of service sector jobs. Rules adopted pursuant to this subsection are major substantive rules as defined in [Title 5, chapter 375, subchapter 2-A](#).

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 75-412, 50 Stat. 888, [Section 8](#), as amended.

September 13, 2022

LD 2003

P.L. 2021, ch. 672

“An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”

LD 2003:

1. Provides that for any area in which housing is allowed, as long as the law describing minimum lot size for subsurface waste disposal is followed, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit

EXCEPT that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit AND the lot is located in a designated growth area within a municipality (consistent with section 4349-A, subsection 1 paragraph A or B)

OR if the lot is served by a public, special district or other centrally managed water system AND a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

A municipality can allow more if it chooses to.

2. Provides that a municipality must allow structures on a lot with an existing dwelling unit to add up to 2 additional dwelling units on that lot if one additional dwelling unit is within or attached to the existing structure and the other additional dwelling unit is detached;

3. Specifies that, for a lot in any zone for which housing is permitted, the intent is not to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with Title 30-A, chapter 187, subchapter 4;

4. Specifies that accessory dwelling units are not subject to a municipality’s rate of growth ordinance;

5. Provides that the affordable housing development and accessory dwelling unit provisions are subject to minimum lot size requirements in accordance with the Maine Revised Statutes, Title 12, chapter 423-A, as applicable;

6. Specifies that the income eligibility for all the housing units in an affordable housing development must be calculated at the time of initial occupancy;

Commission to Increase Housing Opportunities by Studying Land Use Regulations and Short-term Rentals

September 13, 2022

7. Authorizes a municipality to allow more dwelling units in residential areas than the minimum number required to be allowed by the municipality;
8. Provides that lots that have constructed dwelling units or accessory dwelling units in accordance with this law are not eligible for any additional increases in density except as allowed by the municipality;
9. Provides that a municipality may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit;
10. Provides that DECD, in cooperation with MaineHousing, must establish both statewide and regional housing production goals;
11. Specifies that municipalities must, to fulfill the statewide or regional housing production goal established by DECD, ensure that all zoning ordinances affirmatively further fair housing in accordance with federal law and the Maine Human Rights Act; and
12. Specifies that a municipality may regulate a short-term rental to meet the statewide or regional housing production goal established by DECD.

LD 2003 initially included the Housing Opportunity Program within DECD. The program was enacted as Part U of P.L. 2021, ch. 635 (supplemental General Fund budget bill). This program sets up a fund within DECD to provide grants to support municipal ordinance development, technical assistance and to encourage public participation and community engagement in the process of increasing housing opportunities.

September 13, 2022

LD 1961

P.L. 2021, ch. 657

“An Act To Help Alleviate Maine's Housing Shortage and Change the Membership of the Maine State Housing Authority”

LD 1961:

1) Sets as a state goal in managing to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development to read:

~~D. To encourage and promote affordable, decent housing opportunities for all Maine citizens promote and work to ensure choice, economic diversity and affordability in housing for low-income and moderate-income households and use housing policy to help address disparities in access to educational, occupational and other opportunities;~~

2) It amends Growth Management Act's inventory and analysis section that a comprehensive plan must include to read:

~~H. Residential housing stock, including affordable housing for low-income and moderate-income households, policies that assess an assessment of community needs and environmental effects of municipal regulations, lessen an examination of the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to that limit the reuse of upper floors of buildings in downtowns and on main streets and policies that provide an identification of opportunities for accessory dwelling units;~~

3) It amends the guidelines for policy development and implementation strategy to include tribal and cultural resources:

~~H. Ensure that the value of historical and, archeological, tribal and cultural resources is recognized and that protection is afforded to those resources that merit it;~~

4) It changes the membership of MaineHousing (still 10 commissioners, 8 appointed by Governor).

The 8 appointed by Governor must represent:

- A commissioner who represents tenants, who is an advocate for tenants' rights or who resides in housing subsidized by the United States Department of Housing and Urban Development or the Maine State Housing Authority;
- A commissioner who has knowledge and expertise in civil rights or in affirmatively advancing fair housing policy;
- A commissioner who represents residents with disabilities or aging residents;

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- A commissioner with expertise in energy efficiency issues regarding residential structures; and
- *Four members* who have:
 - (a) Experience or expertise in any of the following: housing development and rehabilitation; supporting unhoused populations; improving labor standards; economic and community development; transportation; municipal land use planning; the building trades; the real estate market; or banking and finance; and (b) An interest in and commitment to increasing the availability and affordability of housing opportunities for the people of the State.

Previously, statute said:

“At least 3 gubernatorial appointments must include a representative of bankers, a representative of elderly people and a resident of housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority. In appointing the resident, the Governor shall give priority consideration to nominations that may be made by tenant associations established in the State. Of the 5 remaining gubernatorial appointments, the Governor shall give priority to a representative involved in the housing business and a representative of people with disabilities.”

September 13, 2022

LD 201

P.L. 2021, ch. 671

“An Act To Reduce Greenhouse Gas Emissions and Promote Weatherization in the Buildings Sector by Extending the Sunset Date for the Historic Property Rehabilitation Tax Credit”

Public Law 2021, ch. 671 amends the definition of “certified qualified rehabilitation expenditure” under the law governing the tax credit for rehabilitation of historic properties to extend from December 31, 2025 to December 31, 2030 the date by which the United States Department of the Interior, National Park Service must determine a proposed rehabilitation of a structure meets its standards for rehabilitation in order for a taxpayer to claim an income tax credit for a qualified rehabilitation expenditure. Chapter 671 also extends from August 1, 2025 to August 1, 2030 the date of a report by the Maine State Housing Authority regarding the affordable housing portion of the credit.

Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

Additional Legislation of Interest

130th Maine Legislature - LD 484: PL 2021, chapter 753 – AA Relating to the Housing Opportunities for Maine Fund (Taxation Committee)

Public Law 2021, chapter 753 provides that the Maine State Housing Authority must use 25% of funds transferred from the real estate transfer tax to the Housing Opportunities for Maine Fund to support the creation of new housing units, through new construction or adaptive reuse, that are affordable to low-income households.

Title 30-A §4852. Housing Opportunities for Maine Program

1. Operator of program. The Maine State Housing Authority shall operate the Housing Opportunities for Maine Program. This program may be operated in conjunction with or as part of one or more other programs of the Maine State Housing Authority.

2. Use of money. Money in the fund may be used as provided in this subsection.

A. Money in the Housing Opportunities for Maine Fund may be applied to:

- (1) Reduce the rate of interest on or the principal amount of such mortgage loans as the Maine State Housing Authority determines;
- (2) Reduce payments by persons of low-income for the rental of single-family or multi-unit residential housing;
- (3) Make mortgage loans and such other types of loans or grants as the Maine State Housing Authority determines;
- (4) Fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the Maine State Housing Authority's bonds issued under this subchapter;
- (5) Pay the administrative costs of state public bodies or other public instrumentalities and private, nonprofit corporations directly associated with housing projects; and
- (6) Otherwise make the costs of single-family or multi-unit residential housing affordable by persons of low-income.

130th Maine Legislature - LD 1694: PL 2021, chapter 664 – AA To Create the Maine Redevelopment Land Bank Authority (Innovation, Development, Economic Advancement and Business (IDEA) Committee)

Public Law 2021, chapter 664 establishes the Maine Redevelopment Land Bank Authority, whose purpose is to assist municipalities and other entities in this State in the redevelopment of properties, including properties that are blighted, abandoned, environmentally hazardous and functionally obsolete, in order to return those properties to productive use. The redevelopment authority may acquire property at the request of a municipality or county. It also establishes:

- A fund to support the purpose of the redevelopment authority, which includes as a source of revenue a fee on the disposal of construction and demolition debris.
- The Development Ready Advisory Committee within the redevelopment authority in order to develop and maintain best practices for community development and to assist the redevelopment authority and any other entity that requests assistance with redevelopment matters.

Title 30-A chapter 204 – Redevelopment Land Bank Authority

§5153. Definitions

- 1. Abandoned.** "Abandoned" with reference to a property means a property that is vacant and to which the owner has no intent to return.
- 2. Blighted.** "Blighted" with reference to a property means a property on which buildings or improvements are detrimental or are a threat to the public health, safety or welfare in their present condition.
- 3. Environmentally hazardous.** "Environmentally hazardous" with reference to a property means a property that is designated as an uncontrolled hazardous substance site under Title 38, section 1365.
- 4. Functionally obsolete.** "Functionally obsolete" with reference to a property means a property that is unable to be used to adequately perform the functions for which it was intended.

§5154. Maine Redevelopment Land Bank Authority established; purpose

The Maine Redevelopment Land Bank Authority, as established in Title 5, section 12004-G, subsection 7-G and referred to in this chapter as "the redevelopment authority," is a body corporate and politic and a public instrumentality of the State.

The purpose of the redevelopment authority is to assist municipalities and other entities in this State in the redevelopment of properties identified as eligible under section 5157, subsection 1 in order to return those properties to productive use.

The purposes of this chapter are public and the redevelopment authority is performing a governmental function in carrying out this chapter.

§5157. Eligible properties; exemption of certain properties

1. Eligible properties. The redevelopment authority may acquire property through an agreement under section 5158, subsection 4, which may include:

A. Property that the redevelopment authority has determined is abandoned as demonstrated by a totality of evidence including, but not limited to, the following:

- (1) Doors and windows on the property are boarded up, broken or continuously left unlocked;
- (2) Rubbish, trash or debris has accumulated on the property;
- (3) Furnishings and personal property are absent from the property;
- (4) The buildings or improvements on the property are deteriorating so as to constitute a threat to public health or safety;
- (5) Gas, electric or water service to the property has been terminated or utility consumption is so low that it indicates the property is not regularly occupied;
- (6) A mortgagee has changed the locks on the property and neither the mortgagor nor anyone on the mortgagor's behalf has requested entrance to, or taken other steps to gain entrance to, the property;
- (7) Reports of trespass, vandalism or other illegal acts being committed on the property have been made to local law enforcement authorities;
- (8) A code enforcement officer or other public official has made a determination or finding that the property is abandoned or unfit for occupancy;
- (9) The mortgagor is deceased and there is no evidence that an heir or personal representative has taken possession of the property; or
- (10) Other reasonable signs of abandonment;

B. Property that the redevelopment authority has determined is blighted because of:

- (1) Dilapidation, deterioration, age or obsolescence;
- (2) Inadequate provision for ventilation, light, air, sanitation or open spaces;
- (3) High density of population and overcrowding;
- (4) Tax or special assessment delinquency exceeding the fair value of the land;
- (5) The existence of conditions that endanger life or property; or
- (6) Any combination of the factors described in subparagraphs (1) to (5);

C. Property that the redevelopment authority has determined is functionally obsolete due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design or other similar factors that affect the property itself or the property's relationship with other surrounding property;

D. Property that is environmentally hazardous; and

E. Property that a municipality or county has determined is not within the capacity of the municipality or county to redevelop and for which the municipality or county has requested the assistance of the redevelopment authority.

2. Exemption. Notwithstanding any provision of this chapter to the contrary, the redevelopment authority may not:

- A. Acquire land or other natural resources owned by a federally recognized Indian tribe or owned by the United States for the benefit of a federally recognized Indian tribe;
- B. Acquire land the majority of which is unimproved or is not integral to the redevelopment of the property; or
- C. Acquire property that is an active or former military facility that qualifies for inclusion in the Defense Environmental Restoration Program under 10 United States Code, Section 2701.

130th Maine Legislature – LD 1269: PL 2021, chapter 270 (Labor and Housing Committee)

Public Law 2021, chapter 270 requires the Maine State Housing Authority, to the extent consistent with federal law, use its funding or any state or local funding in a manner to affirmatively further fair housing in the State.

Title 30-A §4741, sub-§20

20. Affirmatively further fair housing. The Maine State Housing Authority shall, to the extent consistent with federal law, ensure that any Maine State Housing Authority funding or any state or local funding is used in a manner that will affirmatively further fair housing in this State. For the purposes of this subsection, "affirmatively further fair housing" means to engage actively in efforts to address barriers to and create opportunities for full and equal access to housing without discrimination on the basis of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or receipt of public assistance.

An overview of the federal Fair Housing Act (FHA): <https://legislature.maine.gov/doc/7185>
Maine Fair Housing Act overview: <https://legislature.maine.gov/doc/7186>

In Massachusetts – Chapter 40B – Regional Planning Law (in effect since 1969)

- Enables local Zoning Board of Appeals to approve affordable housing developments under flexible rules if at least 20 to 25% of the units have long-term affordability restrictions.
- Cities and towns that achieve a [minimum housing affordability threshold of 10 percent](#) may reject 40B comprehensive permit applications without facing an appeal from the developer, giving such cities and towns great discretion over 40B proposals.
- MassHousing has made \$2 million available through the [Planning for Housing Production Grant Program](#) to help cities and towns implement their planning goals, and achieve safe harbor status under Chapter 40B.

Here's a link to the law:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40B/Section22>

MassHousing website:

<https://www.masshousing.com/en/programs-outreach/planning-programs/40b>

Citizens' Housing and Planning Association Fact Sheet:

<https://www.chapa.org/sites/default/files/Fact%20Sheet%20on%20Chapter%2040B%202011%20update.pdf>

New MA law (1/21) – Multi-family Zoning Requirement for MBTA communities Mass. General Laws c. 40A §3A

MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute:

- Minimum gross density of 15 units per acre
- Located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable
- No age restrictions and suitable for families with children

APPENDIX Z

Public comment received by the commission



19 Community Drive • Augusta, Maine 04330 • (207) 622-7501 • Fax: (207) 623-3590

Public Comments for the Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

J. Andrew Cashman on behalf of the Maine Association of REALTORS®

October 3, 2022

Senator Hickman, Representative Roeder and members of the Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals, my name is Andy Cashman. I am the Founder of Resolve Government Relations and I am here on behalf of my client, the Maine Association of REALTORS®, a professional trade association with over 6,200 members statewide. Our members represent both buyers and sellers and are involved in both residential and commercial real estate transactions. Our membership also includes affiliates, which are those professionals involved in real estate transactions, such as bankers, closing agents, title agents, appraisers, building inspectors, surveyors, etc. The Maine Association is chartered by the National Association of REALTORS® (NAR) which is the largest trade association in the country.

The lack of affordable housing in Maine is a serious problem that warrants wide-ranging policies. There are many ways to approach the problem, but we believe any effective approach must take a holistic look at the barriers to increasing supply and physically building more affordable housing.

The fundamental cause of the affordable housing problem is a lack of supply. We simply do not have enough affordable homes in Maine and we need to build more – either through entirely new homes or by modifying existing structures.

We strongly oppose any state-wide prohibitions, restrictions, taxes, or fees on the use of a property as a short-term rental. Such actions are detrimental to private property rights and defer attention from the core problem of our housing crisis, which is the need for additional housing.

Restricting a person's ability to use their own private property as a short-term rental disproportionately targets Maine people – not wealthy people “from away.” Historically, 75% of Maine real estate purchases are from Maine zip codes – during



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October 3, 2022

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the pandemic it has still been around 67% (second homes are included in this figure). Maine residents should not be financially penalized for how they choose to use their real estate in Maine. Many Mainers need to rent out their camp or family home to afford to keep it. And those Mainers are already paying their fair share of taxes to the State of Maine and to local governments: they are paying their property taxes and, property owners who rent their vacant units (or their second homes) must pay taxes (9%) on that rental income. In addition, these Maine residents who own second properties are unable to participate in municipal voting where that second property is located. In turn, they are often negatively impacted by local ordinances because they do not have a voice or a vote that can be heard in that municipality.

Furthermore, short-term rentals meet a variety of needs for the community; housing itinerant workers such as traveling health care professionals, college professors, construction personnel and tradespeople, seasonal employees for Maine's recreational and hospitality industries, and families in transition between selling and buying their permanent homes. Short-term rentals support one of Maine's largest industries – tourism and the economic ripple effect to affiliated industries.

The core question is, where is the disconnect for the development of all types of housing including ADU's, single family homes, subdivisions, small scale developments, larger complexes and the rehabilitation of substandard units or conversion of vacant commercial space to housing units? How do we develop the workforce to build Maine housing? How do we incentivize Maine communities to accept development and ease the zoning barriers to accept incremental growth?

The Maine Association of REALTORS® strongly advocates for affordable housing: it is a priority in our Public Policy Statement, and we operate a small non-profit, the Maine Association of REALTORS® Foundation, which has provided \$3.5 million dollars to affordable housing efforts in our state over the past 30 years, around \$120,000 annually for housing programs or households not served by other funding sources. We were strong supporters of LD 2003 last session and look forward to engaging in this Commission's work as well.

Thank you for your time and consideration.

Nadeau, Karen

From: Carrie Martin <cmartin@legacysir.com>
Sent: Friday, October 21, 2022 12:51 PM
To: Nadeau, Karen
Subject: Public Comment: Commission To Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-Term Rentals (STRs)

This message originates from outside the Maine Legislature.

Dear Commissioners,

I am writing to provide public comment on your recent meetings. Thank you for your efforts and commitment to this Commission. I would also like to thank Karen Nadeau and Steve Langlin for their impressive work.

I am a Yarmouth resident, real estate broker, small landlord with long-term rentals and bookkeeper for my husband's contracting business. Presently, I am interested in housing matters and the big picture of where we are going as a State.

Rental Registry

I am concerned that some of the Commission's proposed ideas have turned to long-term rental units, lease terms and possible recommendations on all rental units such as a statewide Rental Registry. It's clear the Commission wants more information on the make-up of the housing stock. I would encourage the Commission to look at existing reliable resources including: public data from the Town Assessor or Town Planner; online housing data (i.e. AirDNA, etc.); Town/Regional housing needs and assessment studies; Maine State Housing reports (i.e. Short-Term Rental Overview presented by Commissioner Jorgensen, etc.); and statewide housing production goals to be released by the Department of Economic & Community Development.

You may be aware that many Towns (Yarmouth, et al.) and Cities (Lewiston, et al.) have discussed and some have implemented Rental Registrations. Many of these discussions were contentious negotiations between the Town/City officials, landlords, stakeholders, private property advocates and interested citizens. We just went through this process in Yarmouth and in the end the Registration was repealed as it was a one-time event and ineffective. In fact, we already had reliable data from the Assessor and AirDNA prior to the long process.

STRs

I believe Commission recommendations on any possible STR Ordinance should be simply recommendations and not requirements or mandates. It is clear that each Town, City and Region is unique and has different STR usage. Yarmouth has relatively few short-term rentals (20 units per AirDNA data) and I am not aware that we have actual issues to regulate at this time. Our Town staff is already very busy with pressing issues and limited resources. I suspect that is the same in many of the 500 or so municipalities in Maine.

Smaller Towns and Associations with quasi-public (some built with Clean Water Act funds) or public waste water disposal systems should be made aware of potential issues that can arise if the number

of STR users in a home does not match the capacity of the system. Towns could face increased costs for repair or replacement of systems that are overused and fail. It is a good idea to have septic inspections around STR usage, but it may get quite complex if Towns are required to do them. It's obviously easiest for a property owner to demonstrate a working system on a private septic.

Zoning, Housing Opportunities & Affordable Housing

My Town could use any guidance, strategies or incentives that the Commission might recommend to encourage an increase in housing, especially affordable housing and units to be used as permanent, year-round housing for Maine residents. Building costs are astronomically high and Yarmouth has recently imposed new ordinances (i.e. sprinkler, historic preservation, etc.) which are significantly adding to those costs. Many current housing discussions at the state and national level related to increasing affordable housing and housing opportunities focus on *reducing* land use and zoning restrictions.

The Town of Yarmouth is working to understand LD 2003 in more depth to determine how that might increase housing opportunities in conjunction with our zoning. We will need to amend our fairly restrictive zoning to allow for the implementation of LD 2003 if, in fact, the Town wants more housing units on both a smaller scale (single family, ADUs, duplexes, multifamily) and a larger scale. I am concerned about nimbyism as we move forward.

It might be helpful if the Commission would recommend potential ways to keep affordable housing units for longer periods of time and suggest an ideal time period (i.e. 25, 30, 45, 99 years). It feels counterproductive to see many designated affordable housing units lost as they convert to market rate. There seems to be significant difficulty establishing, monitoring and enforcing affordable housing mechanisms (deed restrictions, etc.).

Thank you for your consideration and your continued work on the Commission. I look forward to seeing your report to the Joint Standing Committee of the Legislature.

Carrie

Carrie Martin, 316 East Main Street, Yarmouth

207-415-2504

October 24, 2022

Senator Hickman, Representative Roeder and members of the commission, thank you for the opportunity to comment today. My name is Cate Blackford and I serve as the policy director for the Maine People's Alliance.

Thank you all for the robust discussion these past weeks on the opportunities to address Maine's housing crisis. As you have been meeting, so have a number of low & moderate income Mainers to develop their own recommendations to the state. Many of these discussions have greatly overlapped and aligned with proposals raised here.

As you go into this afternoon's work, I wanted to share some of those areas with you.

Thank you for all the different avenues you've touched upon for how we get to the level of housing, including affordable housing that we need. You discussed the lack of resources for local and regional planning, including funding and technical assistance, as well as the need for goals that align with smart growth principles, labor standards and updated growth forecasts. We strongly support the setting of these goals as a foundational step to building the housing that we so desperately need.

You have also discussed the importance of greater coordination between state agencies and greater clarity between the state, regional and local planning efforts. Resources and coordination can help support not only the quality of the plans but also the local engagement process and building public support for growth management. I would also urge you to tie them to comprehensive housing goals and a body - potentially a statewide appeals board - for ensuring those goals are held as the north star for local, regional and state decision-making. Without accountability mechanisms, incentives will likely not be enough to achieve the housing we need at all income levels in the types and locations that will sustain our families and economy in the decades to come.

You have also discussed the need for the state to create a registry for short term rentals. We would urge you to do so both so that municipalities are not required to take on this work and to capture the data we need as a state to properly plan for both how we want to meet our housing and tourism goals. We would urge you to go beyond a registry and create guidelines for differentiating housing from short term rentals when it comes to real estate classifications. We would also urge you to recommend the creation of guidelines for communities that are experiencing, or at risk of experiencing, residential housing stock being flipped into vacation rentals, including caps on short term rentals. If you are able to both reclassify existing STRs as lodging for taxation and sale price purposes and prevent other homes from being priced as potential short term rentals, we can limit the growing impacts of STRs on our housing crisis.

We also strongly support the recommendations to preserve existing (natural and expiring) affordable housing, especially through means such as facilitating the creation of coops and community land trusts, as well as make significant investments in the energy efficiency of our existing housing stock.

And our overall recommendation follows much of the conversation today and urge you to be bold and to place the people without safe, decent housing they can afford at the heart of your recommendations, even when that may limit existing property rights.

Thank you again and I am happy to take any questions

To: Members of the Commission to Increase Housing Opportunities

From: Kate Snyder, Mayor and Member of Portland's Legislative/Nominating Committee and Kristen Dow, Director, Portland's Health and Human Services Department

Re: End of Emergency Rental Assistance Program

Date: November 1, 2022



We would like to take this opportunity to express the Portland City Council's Legislative/Nominating Committee's concern regarding the abrupt ending of the Emergency Rental Assistance (ERA) Program and the impact it will have on recipients as well as municipalities.

Of the estimated 8,500+ households across the State currently relying on this funding, more than 870 are located in Portland. It is likely that, with the sudden end of this resource, households will turn to General Assistance for similar support. While the City of Portland operates a General Assistance (GA) office seven days a week and is successful in making determinations within 24 hours of receiving GA applications, we are not equipped to handle the anticipated spike in GA applications resulting from the end of ERA funding.

The 120 municipalities across the State likely to be impacted as a result of this program's end are likely to be similarly impacted. We urge the State to develop an effective solution to bridge the gap in rental assistance funding and to relieve municipalities from the responsibility of absorbing 8,500+ former ERA recipients.

Effective solutions could include, but are not limited to: 1) the State taking responsibility for processing GA applications, specifically those submitted by former ERA recipients; 2) formally allowing and/or recommending that all municipalities in the State of Maine provide GA assistance above the overall maximums to avoid a spike in the number of individuals struggling with houselessness; and 3) reimbursing municipalities for 100% of those costs.

Administratively, we urge the State (and the legislature during the upcoming legislative session) to do everything in its power to assist ERA recipients in this difficult transition. Municipalities cannot possibly take on this sudden administrative and fiscal responsibility in a manner that is sustainable or fair to their taxpayers or households in need.

The solutions to these challenges are complex and imperfect. However, we hope to be included as a collaborator in developing and identifying them, and remain committed as a City to continue to support our communities. We ask for assistance at this time to ensure that municipalities are not solely relied upon as the de facto solution to a Statewide challenge.

Sincerely,
Kate Snyder, Mayor
City Council Legislative/Nominating
Committee Member

Kristen Dow, Director
Portland Health & Human Services
Department



Testimony of Kelly Fay, Public Policy, Airbnb
Commission to Increase Housing Opportunities in Maine by Studying
Land Use Regulations and Short-term Rentals in Maine

Airbnb continues to appreciate the opportunity to be included and speak on behalf of our incredible Host community.

As you know, tourism has long been a vital part of Maine's economy, supporting families and jobs throughout the state and leading to its designation of Vacationland. [According to the Maine office of Tourism](#), direct tourism expenditures in 2021 totaled over \$7.8 billion, with an overall economic impact of over \$14 billion and 143,100 jobs supported by tourism.

Our Host community is proud to be part of this long-standing tradition of welcoming visitors to the Pine Tree state, allowing them to experience the unique communities and incredible coastline it has to offer, all while supporting the businesses and attractions that support residents and their families. The vast majority of these Hosts are everyday individuals and families who occasionally engage in STR to pay for their mortgage, medicine, and student loans, or save money for retirement or a rainy day.

- A typical Host in Maine earns approximately \$8,500 a year
- A typical entire home listing in Maine rented approximately 40 nights a year
- As self reported, approximately 65 percent of Maine Hosts are women
- As self reported, approximately one-third of Maine hosts are aged 60+

Many in our community turned to Hosting in the last several years to help offset rising cost of living, or the financial stresses brought on by the COVID-19 pandemic. In a recent survey of our Host community in Maine;

- 42 percent of Maine Hosts say the money they earned through Airbnb in the last year helped them stay in their home
- 41 percent of Hosts say the money they've earned through Airbnb has allowed them to cover food or the rising cost of living

Airbnb is also proud of the role our platform can play in providing much needed housing flexibility and supplemental income to those who serve their communities. In November of 2021, [we announced a partnership](#) with [Boots2Roots](#) – which supports transition planning for active duty military members in Maine – and [Live and Work in](#)

Maine to assist active service members in the state in tapping into the financial empowerment Hosting can offer. According to a survey of our Host community in the state;

- 15 percent of Hosts have a veteran in their household
- 23 percent of Hosts have a healthcare worker or first responder in their household
- 14 percent of Hosts have someone who works in education in their household

Airbnb also recognizes that respecting neighbors and neighborhoods is crucial in ensuring home sharing is working for all members of the community where it operates. In fact, one of the reasons for the success of Airbnb has been our investments in innovative tools to protect hosts, guests, and neighbors. Among these are the following:

- **Neighborhood Support Line:** Providing direct access for guests, hosts, and the communities in which we operate is critical to trust on our platform. This hotline has proven to be an important tool in our efforts to combat unauthorized gatherings and enforce [our ban on party houses](#). **The number is (855) 635-7754.**
- **Law Enforcement Portal:** In 2019, Airbnb established our Law Enforcement Portal, which provides a secure channel for law enforcement to submit valid legal requests for information, track requests and receive updates. To create an account and submit a request, please visit www.airbnb.com/lert.
- **Global Ban on Parties:** Our policies [ban parties](#) in our listings.
- **Community Integrity Program:** Last year, Airbnb launched a partnership with VRBO to further address the challenge of disruptive party houses that are repeatedly reported. Vrbo's [Stay Neighborly](#) and Airbnb's [Neighborhood Support Line](#) allow community leaders, neighbors and hosts to elevate issues related to alleged nuisance listings. [The Community Integrity Program](#) allows Airbnb and Vrbo to work through trusted third-party intermediaries to develop a process that helps identify properties that have been permanently removed from each platform due to repeated violations of respective community policies. The listing identity will be available for each company to take the appropriate action.
- **Risk Detection Tools:** Safety-focused technology that restricts certain reservations based on risk factors -- including reservation attempts for certain

local, entire home listings made by guests under the age of 25. This technology is aimed at trying to prevent unauthorized parties and has blocked thousands of distinct reservation attempts in the US. We've also extended our [policy of blocking certain stays during certain holiday weekends](#), including the upcoming July 4 weekend.

We look forward to continuing to work alongside the state and its localities to ensure home sharing remains a valuable tool for its residents, and to work towards reasonable regulations that will protect and empower all stakeholders.

Thank you for your time.

