



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
OFFICE OF THE COMMISSIONER
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES

IN OPPOSITION TO LD 54

An Act to Require Compliance with Natural or Agricultural Resource Protection Ordinances

May 15, 2023

Senator Brenner, Representative Gramlich, and members of the Joint Standing Committee on Environment and Natural Resources, my name is Judy East. I am the Director of the Bureau of Resource Information and Land Use Planning. I will be speaking on behalf of the Department of Agriculture, Conservation and Forestry (DACF) in opposition to LD of LD 54, *An Act to Require Compliance with Natural or Agricultural Resource Protection Ordinances*, for the reasons outlined below.

This bill requires that a housing structure required to be allowed under municipal zoning ordinances and built after October 1, 2023, comply with municipal ordinances designed to protect natural and agricultural resources adopted before April 27, 2022.

The bill's intent appears to protect agricultural land and other natural resources from the additional density (2 units per lot outside of growth areas and 4 units per lot in growth areas) required by 30-A MRSA §4364-A, sub-§1. The Department supports the intention to protect agricultural land. However, the bill, as written, removes the clause "[N]otwithstanding any provision of law to the contrary" and adds a new section (§4364-A, sub-6-A) to ensure adherence to a municipal ordinance "designed to protect natural or agricultural resources that was adopted before April 27, 2022." The Department is concerned that the proposed removal of the notwithstanding clause would remove the primacy of 30-A MRSA §4364-A, sub-§1 over other statutory provisions affecting housing and density, thus undermining the statutory intent of requiring greater density in municipal ordinances to address the need for more housing statewide.

Also, "[N]atural or agricultural resource protection ordinances" are not defined and could be interpreted to refer to shoreland zoning ordinances or other natural resource protection provisions within a subdivision, site design, or zoning ordinance. This could lead to confusion and legal uncertainty.

Finally, it is a significant administrative burden on municipalities to retain an April 27, 2022, version of their ordinances indefinitely into the future when reviewing proposals for housing structures. The bill is also worded so municipalities would review housing structures after the fact rather than as

HARLOW BUILDING
18 ELKINS LANE
AUGUSTA, MAINE



PHONE (207) 287-3200
FAX (207) 287-2400
WWW.MAINE.GOV/DACF

proposals to be reviewed. Regardless, many do not review proposals for housing structures, and the bill would thus add a significant additional burden on municipalities.

An alternative approach to the proposed bill might be to disallow the requirement for two units on one lot (in 30-A MRSA §4364-A, sub-§1) on agricultural land except to provide development of tenant farmer or farm labor housing.

Thank you for considering this issue. We will be available to answer questions at the work session.