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Testimony of the Maine Municipal Association

In Opposition To

LD 1926, *An Act to Require Increased Housing Density or Lower Minimum Lot Sizes for Workforce Housing*

May 9, 2025

Sen. Curry, Rep. Gere and distinguished members of the Housing and Economic Development Committee, my name is Rebecca Graham, and I am submitting testimony in unanimous opposition to LD 1926 at the direction of MMA's Legislative Policy Committee (LPC). Our LPC is composed of municipal officials from across Maine, elected by their peers to represent communities with vastly different enforcement staff, resources and capacities.

This bill proposes an unfunded mandate on municipal government who must adopt ordinances to facilitate the provisions of this legislation without an adequate timeline to do so, no technical support and no compensation which includes not only amending comprehensive plans but also parking restrictions, yet again. As such it will need the mandate preamble and require a vote of 2/3 of both bodies to override the responsibility to fund 90% of the costs this mandate places on local property tax. This provision was ratified by Maine's voters in 1992.

Maine State Constitution: Article IX, Section 21

Section 21. State mandates. *For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government. Legislation implementing this section or requiring a specific expenditure as an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House. This section must be liberally construed.*

By way of scale, last time this section of law was amended under 30-A, many communities had just increased density and were required to return to the drawing board with costs exceeding $38,000, while the state only provided $10,000 for council municipalities and $5,000 for town meeting municipalities. Maine's Constitution requires the state to provide 90% of the costs to implement this legislation unless you send a clear message that you have no desire to do so by the appropriate 2/3 majority vote. Additionally, the timeline should be pushed until

2027 to adequately meet all local town meeting patterns, including those that occur in November and avoid creating yet another cost for holding a special town meeting.

Municipal officials, including code enforcement officers, planners, and members of municipal planning boards who serve on MMA's LPC provided strong comments on the issues around this proposal which has already been rejected previously in its prior form. Density is a locally determined fact-based decision that cannot be prescribed based upon intended occupancy of units, but must be evaluated based on local lot conditions, including existing infrastructure, stormwater and environmental impacts, review authority and enforcement capacity, existing comprehensive planning goals and adequate health and safety considerations. The cost of the impacts that development causes should be paid for by the developer not the adjacent property taxpayers.

Minimum lot size is used to define and maintain rural aspects of many communities directly tied to their comprehensive plan, and resident voted desire. These may be changed by the will of those same voters at any time and through their next comprehensive planning process if desired. As drafted, this bill preempts the will of the voters and the voice of existing residents but more importantly, makes no provisions for guaranteeing that the local soils where these developments are intended have adequate space between wastewater and drinking water of adjacent systems that minimum lot size already addresses.

Under Sec. 5 of the bill, it preempts the use of minimum lot size as established by municipal ordinance for this purpose. One LPC member shared that the net result is the equivalent of sticking a drinking straw directly into the septic tank. Rep. Gere pointed out yesterday during the public hearing on LD 1940 that communities must plan to understand the environmental impacts of additional septic systems and the Association and its members could not agree more. This bill preempts the tools municipalities use with their limited resources to limit the environmental impacts of additional septic systems and vital tools for resource protections.

Workforce housing is market rate housing, and while the goals of defining that provided in statute are laudable, as are the long-term affordability aspects, there is no one to enforce these provisions in most communities leaving the residents themselves to battle the market forces that follow. Code enforcement officers, planning boards and municipal officials would have to monitor the sales of units and include a local ordinance to enforce against a violation as the only challenge offered in the bill's language is through a municipal housing authority which does not exist in all the communities this will impact. The prima facie evidence proposed in Sec. 11, is performative at best, where the lending institution involved in the purchase is the presumed as the covenant enforcer based on their own lending decisions, with no cause of action allowed for violations that run with the property as in all other land use violations. The restriction seems as though it provides a long-term benefit when in fact it provides no enforceable benefit for the

units to be maintained as workforce affordable for the period suggested. It is functionally meaningless.

In more densely populated communities, the preemption on parking restrictions in Sec. 2D further restricts the ability for individuals making up to 220% of area median income from being assured adequate space for their vehicles that do not require extra expenditure in a private lot or risk having their vehicle towed during weather related events. Individuals who can only afford the resulting units will be forced into other economically challenging situations by virtue of bad one size fits all planning.

For the multitude of reasons outlined previously and because the bill purports to usurp the will of the local resident voters in deciding how their community grows, creates units that are not equitable in amenities as other similarly situated units, establishes expensive unachievable processes that must be paid for by the property tax payer at the demands of real estate developers, and can already by achieved in those same communities without state statute through existing home rule authority, officials ask you to vote ought not to pass on LD 1962 and direct the interested parties to be part of the housing solution in consultation with the voters not at the expense of their voice.