



Maine Real Estate &
Development Association

Supporting Responsible Development Testimony Neither For Nor Against LD 2173

An Act to Update the Laws Regarding Housing Developments and Accessory Dwelling Units

February 10, 2026

Chair Curry, Chair Gere, and Honorable Members of the Housing and Economic Development Committee,

My name is Elizabeth Frazier, and I am submitting this testimony on behalf of the Maine Real Estate and Development Association (MEREDA) neither for nor against the proposed LD 2173 change to existing housing incentive law passed last session by this committee.

MEREDA opposes the rollback of housing initiatives needed to cut through the regulatory and cost constraints that have made housing unattainable for too many Mainers at all income levels. MEREDA strongly believes in dropping burdensome regulations and allowing for creative market solutions to resolve some of the stickiest parts of the housing crisis. The only way to do that is to create a predictable, manageable regulatory playing field to which the market can react. On that basis alone, MEREDA is concerned that the legislature may be moving to change a law you just passed – this type of regulatory whiplash is antithesis of predictability. In particular, the substance of this bill is designed to shrink the original rollbacks of regulatory burden present in LD 1829. As a general matter, we do not believe this is the right direction for the Housing and Economic Development Committee.

MEREDA resolutely understands that the only way to lower the number of dollars per unit (cost to the consumer) is to stop stifling innovation, development, and entrepreneurship. Our current regulatory structure does exactly that, and it is why we have not been able to meet the moment with the housing stock needed. Candidly, unless and until we admit that having 400+ individual legal structures (municipal entities) that landowners must navigate is a system which cannot efficiently service its constituents, we will continue to spin our collective wheels on this issue. Add to that the state regulatory requirements, and it is no wonder that costs have skyrocketed.

If significant changes are not made to provide predictable, reasonable, developable pathways to housing creation for the private sector, we simply won't have housing that is attainable to Mainers – costs will continue to go up, and stable housing will become more and more the purview of the privileged. Home ownership will be for the elite.

Having said that, MEREDA recognizes that this committee is likely to take some action on this bill. If you feel it is necessary to do so despite the issues discussed herein, we suggest a few areas for improvement. Specifically, we would raise the following issues:

- The changes to the **growth ordinance provisions** will stifle housing at the time when it is needed most, in places where the town has already said they want to put it. Artificially

phasing housing construction adds costs – it doesn't do anything else beneficial to Mainers, it simply adds costs.

- Towns often site concerns about rising service needs, like schools. Today's households contain fewer children, and it is a fact that families are shrinking. A new housing unit does not mean a couple and three kids. More often, it's a couple, a dog, and a kid returning from college.
- Consider clarifying Sec. 6, 2-A to provide a rebuttable presumption that the **height allowance** is permitted while allowing the municipality the option to ultimately disallow it if there are fire and life safety concerns.
 - This is important because it is one less thing the housing creator must "ask permission" to do – every time that occurs, there is an opportunity for NIMBY and opposition troublemaking. They will say things like "if they have to seek permission, or get a waiver, then it's not right for this parcel." By creating a rebuttable presumption that it is permissive barring a town restriction or determination, it forecloses on NIMBY tactics while maintaining local control.
- References to the Department of Health and Human Services (DHHS) law governing **subsurface wastewater disposal** pursuant to Title 22, section 42, may be used inappropriately. MEREDA heard feedback from our members that practitioners in this area have long tried to maintain separation between the DHHS standards and land use policy. While it is true that those standards set a 20,000 square foot floor, that standard is to be used in the context of siting, rather than in land use planning. We would urge the committee to find another way to reference the 20,000 square foot floor, if that is your intent.
 - Further, MEREDA wishes to emphasize that 80% of the state is not serviced by public water and sewer. If we drive all incentives away from any use of septic, we exclude significant portions of the state. This will leave high costs in rural areas, including for older Mainers who may be trying to downsize within their communities into homes that don't yet exist. Worse, it will drive more people toward the few towns that have public sewer and water and fail to take advantage of new septic technologies that are environmentally protective and effective.
 - We encourage this committee to speak with architects and environmental engineers to better understand the landscape of septic technology, its applications to housing creation, and the challenges that will arise if we do not incentivize any housing on areas that are not serviced by public sewer and water.

Finally, MEREDA understands that there is pushback from communities who have been at the forefront of housing creation and who feel they have shouldered their share of the burden. Many of the provisions in this bill, and indeed in policies arising from this committee over the last several years, have incentivized housing in places with robust growth areas served by public sewer and water. That has increased the burden on those regions. For places with less sophisticated planning regimes, a growth area may be out of date, and public sewer and water may be a pipe dream. That does not mean they do not need housing in their community. *Building housing in those communities does not have to result in environmental disaster or even excessive sprawl – it just needs to result in responsible building.* We can craft laws to achieve that. We can balance the burden across our communities. We can be bold.

MEREDA urges this committee to consider a basic tenant of property rights in the United States. For every parcel of real estate, there is a “bundle of sticks.” With no laws or restrictions, a person has their complete bundle of sticks. They may choose to give some away (like an easement or renting a leasehold). The government may impose restrictions that effectively take away other sticks – known as a regulatory taking. Under Maine law, regulatory takings are hard to prove – meaning it is difficult to recover monetary damages - because the Law Court has ruled that if you can sit on a parcel of land and breathe air, then it has value. Regardless of whether that is the right legal position for the state, it is important to remember that the legal concept of regulatory takings exist for a reason. Regulations serve as a restriction, and indeed elimination, on private property rights – they steal sticks out of the bundle.

The best way to create housing, the type of housing that works for real Mainers – like renovated in-law apartments or an added two-story out dwelling for your post-college kid – is to incentivize Mainers to do this work to. To unlock the power of our own citizens, we must give them a break by making housing creation more fair, practical, and predictable.

For these reasons and more, MEREDA urges this committee to use caution acting on this bill. We also encourage you to work with interested parties to understand how far we have to go to really create the housing we need to get Mainers into homes they want and can afford in communities where they want to live and work. Housing can change a person’s life – it’s a bedrock policy issue for all Mainers at all income levels. And housing should be seen as a solution to some of Maine’s largest struggles – without it, we are not able to grow our workforce, our tax base, and our communities as our population ages. Caution is not only inappropriate, but also dangerous. If we do not get the housing we need, our state will never achieve the kind of future we want – indeed, we may not have much future at all.

Thank you for your consideration.

Elizabeth Frazier

On behalf of the Maine Real Estate and Development Association