

Testimony of the Maine Municipal Association

In Opposition to

LD 949 – *An Act to Clarify Licensing Jurisdiction for Manufactured Housing Communities*

April 1, 2025

Sen. Curry, Rep. Gere and esteemed members of the Housing and Economic Development Committee, my name is Rebecca Graham, and I am submitting testimony in opposition to LD 907, *An Act to Clarify Licensing Jurisdiction for Manufactured Housing Communities* of MMA's Legislative Policy Committee (LPC). Our LPC had not met to comprehensively review the language of this bill and take a formal position due to the shortened period of time from the bill printing and the public hearing. As a result, they were polled to provide feedback on this initiative yesterday and I am submitting updated position information.

During the public hearing several points were made that mischaracterized municipal operations, either by assuming that the responsibility to inspect plumbing and wastewater connections as well as electrical connections as required by state is somehow different because the buildings are constructed offsite, or that the fees are different for the manufactured homes based on the way a building is constructed. Municipalities do not need to inspect the construction of modular constructed homes, but they are not permitted to treat these homes any differently for any other land use or health and safety related purpose, connection to municipal services or requirements for outbuildings and attachments to meet local requirements.

The amendment in Sec. 1 would restrict the ability for a municipality to assess a reasonable fee for the approval letters required for an application and renewal for a manufactured housing community license by the manufactured housing board. These fees would apply in communities related public sewer and water certification or review plan approval of a subsurface wastewater disposal design to meet DHHS rules which are not conducted by the department but by the local plumbing inspector.

Additionally, M.R.S.A 30-A sec. 4358 already requires that a building or occupancy certificate may not be delayed due to the alleged failure of new manufactured home housing to meet a code standard or rule but would now suggests where occupancy certificates are required, these homes should be treated differently as to paying for that service.

Occupancy certificates are required in MUBEC municipalities and apply no differently for other affordable housing or residential buildings that must adhere to the same process. The preemption of municipal authority to regulate manufactured housing is limited to defer to the Manufactured Housing Board (MHB) only for the rules and standards that regulate the same matters. To determine where a particular state law or local ordinance of code provision is preempted by 10 M.R.S.A. § 9006 & §9042(3) it is necessary to compare the law, ordinance or code with Title 10, chapter 951 and the provisions of the rules adopted by the MHB to see if they “regulate the same matters.”

Fees and regulations are constitutionally required to advance a legitimate government purpose and must be rationally related to the purpose. As such, the amendment suggestion in Sec. 5 would remove the ability for a municipality to collect the fees for the tasks of certifying—the very factors needed by the manufacturing board to certify a continued license, but also more troubling based on the construction form and not the on the ground review tasks that are expected of all residential and commercial connections to public water and sewers, confirmations of electrical connection and review new out buildings.

The Manufactured Housing Board has existing statutory authority to review and expand their standards to regulate the “same matters” as municipal ordinance and assume the local review duties that are currently missing thereby preempting necessary local regulation for those matters and negating their need for local review. However, the goal of this legislation seems to be to remove municipal fees for the tasks the board is not assuming, not improving the clarity of standards or amending them for law changes.

While officials agree that these homes and communities should not be treated any differently than any other residential building, they do not agree that the cost of conducting necessary reviews for one form of building should be shifted to other property taxpayers. The board can adopt standards for foundations, outbuildings etc. and eliminate the local review for all but the siting processing in establishing a new community, rather than require the local work for all the associated tasks but demanding to be exempt for paying for the local job.