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Testimony of the Maine Municipal Association

In Opposition to

LD 337 - An Act to Amend the Regulations of Manufactured Housing to Increase Affordable Housing

January 23, 2024

Sen. Pierce, Rep. Gere, and distinguished members of the Housing Committee, my name is Rebecca Graham, and I am providing testimony in opposition to LD 337 on behalf of Maine Municipal Association which represents the interests of municipal government before the state and federal government. The positions of the Association are formed at the direction of our 70-member Legislative Policy Committee, (LPC) who are elected by the selectboards and council of the municipalities in each of the 35 Senate districts in Maine. As a result, the positions represent a wide view of communities with varying resources, rural and urban, and those with ample local resources as well as those with none.

Proponents of the bill shared with MMA their thoughts on what the language of the bill achieves. However, the legal effect of the language as draft undermines the intended goals of the bill. By adding the word "zoning" to subsection 2, this bill now limits the kinds of "single family home requirements" that can be applied to manufactured housing to now only apply to municipal "zoning requirements."

Under this reading, any local requirements other than zoning requirements (particularly in towns without zoning) applied to single family homes can no longer be made applicable to manufactured homes. Additionally, this section of statutes allows communities without zoning very limited authority to manage manufactured homes that are not subject to the same building review as other buildings. It provides those communities without zoning the ability to apply any allowable exemption that pertains to this building category without the requirement to adopt zoning practices such as a much lower lot size standard than other single-family dwellings.

The language effectively strips municipalities without zoning of their only tool to establish any municipal requirements in place now and requires them to adopt zoning.

Municipal officials find it deeply concerning that the bill proposes deleting references to construction standards contained in Chapter 10 which apply specifically to manufactured housing. The board and its certification is the only way a municipality subject to requirements for the enforcement of MUBEC standards can ignore them for manufactured housing. The legal effect of their removal as proposed would not subject any manufactured housing to those requirements under Chapter 10 or to the oversight of the board leaving these buildings to only be subject to MUBEC standards and requiring them to have a third-party certification both in the construction phase and on the site of assembly. The board review allows the buildings to meet a lesser than MUBEC standard for older manufactured homes or new models that cannot meet energy stretch codes in communities that have adopted them, such as South Portland.

This would have the effect of limiting their placement in any community required to enforce MUBEC without the board certification preempting it.

To fix the language created by the bill and allow current practice in municipalities that do not have zoning, the Association suggests the following:

Bill Proposed Language: 2. Location of manufactured housing. Municipalities shall permit manufactured housing to be placed or erected on individual house lots ~~in a number of locations on undeveloped lots~~ anywhere single-family dwellings are allowed, subject to the same zoning requirements as single-family dwellings, except as otherwise provided in this section.

Suggested Amended Change: 2. Location of manufactured housing. Municipalities shall permit manufactured housing to be placed or erected on individual house lots ~~in a number of locations on undeveloped lots~~ anywhere single-family dwellings are allowed, subject to all applicable land use requirements as single-family dwellings ~~the same zoning requirements as single-family dwellings,~~ except as otherwise provided in this section.

This approach mirrors what is in place for Tiny Homes currently allowing them to be placed anywhere single-family dwellings are placed but requiring them to meet the same land use requirements expected of stick built single-family dwellings. Tiny homes must meet MUBEC guidelines for Tiny Homes if they are attached to land “subject to all applicable land use requirements as single-family dwellings or as an accessory structure.” They are only exempt if they are treated as a recreational vehicle standard registered with the Secretary of State.

The Association cannot find a good reason to change the language under section E., unless the intent is to make these buildings subject to MUBEC requirements regardless of the year of manufacture, significantly limiting the ability for an individual to buy or sell an older manufactured home.

Without those changes, municipal officials cannot support the bill. Additionally, it’s important to note that with the proposed changes, it will likely necessitate the mandate preamble to be included requiring municipalities to seek a legal review of their ordinances enacted under the 1995 statutes which already limited how restrictive municipalities could be with ordinances around manufactured and modular homes to ensure they are compliant. This may also conflict with pre-approved design neighborhoods that are in progress in some communities intended to be more permissive and provide an example of a manufactured design that would not be allowed in other areas currently as method of increasing available housing and increasing resident comfort with expanding similar approaches elsewhere.