



Testimony Presented to the Joint Standing Committee on Environment and Natural Resources

In Partial Opposition to LD 1096

An Act To Improve Shoreland Zoning Rules and Enforcement To Support Municipalities

April 19, 2017

Senator Saviello, Representative Tucker, and Committee Members, my name is Barbara Berry. I am a resident of North Yarmouth and I represent the Maine Association of REALTORS[®]. MAR is a professional trade association with approximately 5000 REALTOR[®] and affiliate members located throughout Maine. Our REALTOR[®] members are actively engaged in listing, selling, leasing, managing, and developing real property, while our affiliate members are involved in real estate related businesses. They include lenders with banks and credit unions, title companies, appraisers, insurers, building inspectors, and others.

While I am speaking this afternoon in the portion of this public hearing reserved for those in opposition to LD 1096, I want to be clear that the Maine Association of REALTORS[®] does not oppose this bill in its entirety. We support Section 1 of the bill which would require that advanced training be included in continuing education programs for certification for individuals engaged in code enforcement. We believe that the better educated CEOs are in the technical and legal aspects of code enforcement, the better decisions they will make in enforcing land use statutes and municipal ordinances.

MAR also supports Section 4 of this bill which would require that municipal shoreland ordinances must include a provision stating that an applicant for a permit in the shoreland zone must provide the municipal permitting authority with photographs of the shoreline vegetation and development site before construction commences, and no later than 20 days after construction is completed. We believe this will not only aid the municipality in confirming whether there has been compliance with the law, but also aid the developer or landowner in defending against false claims that they have violated the law.

MAR strongly opposes Sections 2 and 3 of this bill. Those sections would double the maximum penalties for violations of land use laws and municipal ordinances...from \$2,500 to \$5,000 for most violations, except in the resource protection zone, where the maximum penalty would increase from \$5,000 to \$10,000. Those penalties are delineated in the "Civil Penalties" section of the statute and **may be assessed on a per-day basis, potentially resulting in very significant fines**. There is, under the statute already, a provision that allows for increasing the maximum penalties for those who violate the law for their own economic benefit. It provides that "If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting



from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements". Clearly, this provides for egregious violators to face serious consequences for ignoring land use laws and municipal ordinances.

We have been told by proponents of the bill that it is rare for maximum penalties to be assessed against violators, so we fail to understand why the penalties should be increased. If higher penalties are warranted, assess greater fines within current limits.

We believe that existing civil penalties in the statute provide a serious deterrent for those who violate laws and ordinances, and oppose the proposal to double those penalties. We respectfully urge you to remove Sections 2 and 3 before passing this bill, and thank you for your consideration of our position on this issue.