

# LEGISLATIVE ADVOCACY



Maine Real Estate &  
Development Association

**Supporting Responsible Development**

## Legislative Update – Summer 2023

June 26, 2023

MEREDA's Public Policy Committee continues to stay engaged on critical matters impacting our members.

### **MEREDA Succeeds in Modernizing Maine's Elevator Safety Laws, Condo Act to Improve Development Environment**

MEREDA successfully worked with the Maine State Legislature to enact two pieces of legislation in the 131st Legislature so far: LD 975, which aligns Maine's elevator safety standards to the standards in the Maine Uniform Building and Energy Code (MUBEC); and LD 1289, which enables the transfer of an unfinished commercial condominium. These two bills were passed by the legislature and signed into law by the Governor this session.

*LD 975, An Act to Align Maine's Elevator Safety Laws with Maine Uniform Building and Energy Code Standards, is now Public Law 2023, Chapter 149.* This new law was enacted as an emergency measure and took effect on June 12, 2023. Under the new law, Maine's safety standards, specifically with respect to elevator size and stop requirements, must be the same as the standards dictated by the International Building Code as it has been adopted by the State of Maine under the MUBEC. This change ensures that Maine's elevator safety standards evolve and align with current international standards, and that Maine statutory standards aren't out of step with current international standards. MEREDA wishes to thank Rep. Ed Crockett of Portland for his sponsorship of this legislation, and the Department of Professional and Financial Regulation (DPFR) for its assistance in updating this important law.

*LD 1289, An Act to Facilitate Property Redevelopment and Encourage Affordable Housing by Allowing the Conveyance of Unfinished Commercial Condominium Units, is now Public Law 2023, Chapter 198.* This new law will take effect on the general effectiveness day for legislation enacted in the First Special Session of the 131st Legislature. That session is expected to adjourn in late June or early July, meaning the effectiveness will be in late September or early October. This new law provides that a commercial condominium may be conveyed from one developer to another, to accommodate projects in which the condo is the most efficient form of development but for which the initial developer is not the same as the specific project developer. For example, in a mill rehabilitation, one developer may take on the rehabilitation work and then transfer condominium units for a multitude of purposes, including to an affordable housing developer, who may fit out on condominium as affordable housing units. MEREDA wishes to thank Sen. Matt Pouliot of Augusta

[www.mereda.org](http://www.mereda.org)

6 City Center, 3<sup>rd</sup> Floor • Portland, Maine 04101 • Tel: (207) 874-0801 • Fax: (207) 899-4870

# LEGISLATIVE ADVOCACY

for his sponsorship of this legislation, and the Housing Committee for its consideration of the deep and complex world of housing policy.

MEREDA will have one additional piece of legislation considered in the 131st Legislature – LD 772, An Act to Establish a Process to Vest Rights for Land Use Permit Applicants. This bill has not yet had its public hearing and is being carried over to the Second Regular Session of the 131st Legislature for consideration next year. MEREDA will be working to drum up support for this bill, which would provide that a land use applicant is subject to the ordinance standards in place on the date on which the application is submitted. This legislation is intended to lower the risk and ensure greater predictability for housing creators by preventing retroactive ordinances from being adopted with the intent or killing one project. MEREDA is open to amending its current language to address unique circumstances or narrow its application, and we look forward to coordinating with stakeholders in the fall.

## **Building Code, Energy Audits, and Power Plays**

On the horizon is a number of state and local initiatives driven by climate action. Among them are:

- the adoption of the latest version of the International Energy Conservation Code (IECC) under the statewide Maine Uniform Building and Energy Code (MUBEC) (MUBEC Technical Standards Board);
- local and statewide efforts to require buildings to report greenhouse gas emissions and/or score the building according to an audit system (South Portland, Maine Legislature); and
- efforts to limit local energy choice and convert Maine’s transmission and distribution utilities into an entity which would be owned and operated by the State (localities, Maine Legislature, and referendum).

These are significant issues that will impact the housing creation community over the new few years and possibly decades. As climate action efforts ramp up across the globe, many Maine towns are running ahead of the legislature to adopt local policies to drive consumer choice. For example, South Portland is contemplating requiring all commercial buildings to publicly report their greenhouse gas emissions, and some advocates are seeking to implement a mandatory energy auditing system, which would score a building based on its energy efficiency. Taking it a step further, some towns have discussed disallowing the installation of fossil fuel energy systems in new construction. The intent of policymakers in support of these actions is to force housing creators and purchasers to elevate the importance of energy efficiency over other elements of a building.

Simultaneously, voters this fall will be asked to support a takeover of the state’s current transmission and distribution utilities (CMP and Versant). This proposal will be in the form of a referendum question and would cost the state upward of \$8 billion to implement. Given the shifting landscape for energy generation,

[www.mereda.org](http://www.mereda.org)

6 City Center, 3<sup>rd</sup> Floor • Portland, Maine 04101 • Tel: (207) 874-0801 • Fax: (207) 899-4870

# LEGISLATIVE ADVOCACY

the natural market forces related to energy efficiency, and the above-mentioned policy proposals to limit consumer choice, MEREDA will likely engage on energy-related matters more than we have in the past. It is critically important that climate action be balanced with the very real need for housing creation in Maine. MEREDA supports reasonable and fair energy regulations and encourages climate activists not to let the perfect be the enemy of the good in this policy realm.

## **MEREDA to Promote Local Adoption of LD 2003 Provisions, Encourage Effective Affordable Housing Policies in Towns**

This fall, MEREDA's Local Issues Committee will be meeting with individual town planners and influencers to promote the adoption of policies from LD 2003, the housing bill that passed in the last legislature. MEREDA is excited to coordinate with other stakeholders to help accelerate the housing creation opportunities inherent in the implementation of LD 2003 land use policies. The current legislature reaffirmed its commitment to this law, which will take effect on January 1, 2024, for all towns that do not require a town meeting to conduct business. For the latter towns, the effective date will be by June 1, 2024.

In all cases, there are many opportunities for the adoption of either effective or burdensome language, despite the intent of the legislation. While the underlying law will remain in effect, towns will have significant latitude to narrow the application of that law or to require additional fees or regulations that will undermine the intent of the law. Most towns are eager and excited to dig into the work of implementing the new policies and want to help solve the affordable housing crisis in their communities. MEREDA looks forward to working with those towns and helping provide information and insight into housing creators' needs to effectively add stock to our housing supply.

MEREDA looks forward to coordinating with local town planners, developers, and interested parties to help provide feedback, guidance, and encouragement for the adoption of the policies in LD 2003 that will significantly move the needle in Maine's housing crisis.

## **Maine Legislature Reaches Agreement on Bipartisan Supplemental Budget**

On June 28, 2023, in the wee hours of the morning, the Appropriations and Financial Affairs Committee of the 131st Legislature reached an agreement on a bipartisan spending package that will comprise the first supplemental budget for the upcoming biennium – Fiscal Years 2024-2025. The total cost of the package is between \$800 and \$900 million (at the time of this publication, a final version of the document and attendant fiscal information was not available). Assuming party leadership on both sides can ensure support for the bipartisan agreement, it can be enacted as an emergency measure, allowing it to take effect immediately upon its signing by the Governor.

The breakthrough was won primarily thanks to concessions on tax issues, including:

- Raising Maine's pension exemption from \$30,000 to \$35,000. This initiative was led by House Minority Leader Billy Bob Faulkingham of Winterport. Under the proposal, the exemption rate would increase on a

# LEGISLATIVE ADVOCACY

regular basis according to the maximum Social Security benefit. The proposal is expected to cost \$48 million by the end of fiscal year 2026.

- Funding an amended child tax credit plan to adjust Maine's current \$300 credit based on inflation.
- Funding to support a revised version of the property tax stabilization tax credit program that was passed last year but is predicted to be unsustainable. The amended version of the program will expand the homestead exemption and property tax fairness credit in lieu of the stabilization program. The final proposal for this program was not available at the time of publication, but more information should be available in the media soon.

The last major piece of the budget puzzle was the inclusion of spending to support the implementation of a new Paid Family and Medical Leave program that covers all Maine employers and their employees. Much of the specifics of the proposal have been left to rulemaking, but it represents one of the most generous programs in the country, with the inclusion of a "strong bond" as a qualifying relation. If employees already have a PFML package with which they are happy, they may keep it, so long as it is just as generous as the new plan proposal.

While the tax cut measures fell short of the \$200 million in tax relief sought by Republicans (and indeed PFML is a payroll tax) the agreements reached to move forward a supplemental budget represent agreement by both Democrats and Republicans that seniors and vulnerable individuals have seen significant cost increases in their daily lives, and that the State coffers have continued to run a surplus.

It remains to be seen whether the fall forecasting predictions will continue to trend upward – if so, we may see more conversations about tax relief or tax cuts during the Second Regular Session, which meets next year.

**MEREDA will continue to remain diligent in protecting its members' interests.** Our members represent a critical pillar of the state economy, and we will continue to advocate for policies that are fair, practical, and predictable. We encourage all those who are interested in rolling up their sleeves and helping to further MEREDA's mission and vision in policymaking to contact Shelly R. Clark, MEREDA's Executive Director at [info@mereda.org](mailto:info@mereda.org).

[www.mereda.org](http://www.mereda.org)

6 City Center, 3<sup>rd</sup> Floor • Portland, Maine 04101 • Tel: (207) 874-0801 • Fax: (207) 899-4870