

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Clarify the Maine Uniform Building and Energy Code**

**Be it enacted by the People of the State of Maine as follows:**

### **PART A**

**Sec. A-1. 10 MRSA §1415-C, sub-§7**, as enacted by PL 2007, c. 699, §2, is amended to read:

**7. Repeal.** This section is repealed ~~July~~December 1, 2010.

**Sec. A-2. 10 MRSA §1415-D, sub-§2**, as enacted by PL 2007, c. 699, §3, is amended to read:

**2. Repeal.** This section is repealed ~~July~~December 1, 2010.

**Sec. A-3. 10 MRSA §1420, sub-§4**, as enacted by PL 2007, c. 699, §4, is amended to read:

**4. Repeal.** This section is repealed ~~July~~December 1, 2010.

**Sec. A-4. 10 MRSA §9707**, as enacted by PL 2007, c. 699, §5, is amended to read:

#### **§ 9707.Repeal**

This chapter is repealed ~~July~~December 1, 2010.

**Sec. A-5. 10 MRSA §9721, sub-§1-A** is enacted to read:

**1-A. Building code.** "Building code" means any part or portion of any edition of a code that regulates the construction of a building, including codes published by the International Code Council or Building Officials and Code Administrators International, Inc., or the Maine Model Building Code or the International Existing Building Code adopted pursuant to Title 10, section 9702, but does not include the fire and life safety codes in Title 25, section 2452.

**Sec. A-6. 10 MRSA §9722, sub-§6, ¶E**, as enacted by PL 2007, c. 699, §6, is amended to read:

E. On ~~December~~January 31st of each calendar year beginning in ~~2010~~2011, report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue;

**Sec. A-7. 10 MRSA §9724, sub-§1**, as enacted by PL 2007, c. 699, §6, is amended to read:

**1. Limitations on home rule authority.** This chapter provides express limitations on municipal home rule authority. Beginning ~~July~~December 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted

any building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The Maine Uniform Building and Energy Code must be enforced through inspections that comply with Title 25, section 2373.

**Sec. A-8. 10 MRSA §9724, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended to read:

**2. Prior statewide codes and standards.** Effective ~~July~~December 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.

**Sec. A-9. 10 MRSA §9724, sub-§3**, as enacted by PL 2007, c. 699, §6, is amended to read:

**3. Ordinances.** Effective ~~July~~December 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void.

**Sec. A-10. 25 MRSA §2353**, as amended by PL 2007, c. 699, §8 and affected by §26, is repealed and the following enacted in its place:

**§ 2353. Duty to inspect buildings under construction**

Unless the municipality is enforcing the Maine Uniform Building and Energy Code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall inspect each new building during the process of construction, so far as may be necessary, to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor as the building official considers necessary concerning the construction of such building so as to render the same safe from the catching and spreading of fire.

This section is repealed December 1, 2010.

**Sec. A-11. 25 MRSA §2357**, as amended by PL 1999, c. 725, §5 and PL 2007, c. 699, §9 and affected by §26, is repealed and the following enacted in its place:

**§ 2357. No occupancy without certificate; appeal**

Subject to the provisions of Title 10, chapter 951, a new building may not be occupied until the building official has given a certificate that the same has been built in accordance with section 2353, and so as to be safe from fire. The inspector of buildings may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied

with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

This section is repealed December 1, 2010.

**Sec. A-12. 25 MRSA §2373, first ¶**, as enacted by PL 2007, c. 699, §11, is amended to read:

Beginning ~~July~~December 1, 2010, the code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The code must be enforced through inspections that comply with the code through any of the following means:

**Sec. A-13. 25 MRSA §2466, sub-§5**, as enacted by PL 2007, c. 699, §14, is amended to read:

**5. Repeal.** This section is repealed ~~July~~December 1, 2010.

**Sec. A-14. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2007, c. 699, §15, is further amended to read:

E. Building standards under chapter 141; chapter 185, subchapter 1; beginning ~~January~~June 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

**Sec. A-15. 35-A MRSA §121, sub-§3**, as enacted by PL 2007, c. 699, §19, is amended to read:

**3. Repeal.** This section is repealed ~~January~~December 1, 2010.

**Sec. A-16. PL 2007, c. 699, §21, sub-§3** is amended to read:

3. The board shall adopt the Maine Uniform Building and Energy Code no later than ~~January~~ June 1, 2010.

A. Between ~~January~~ June 1, 2010 and ~~July~~ December 1, 2010, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State.

B. The board shall maintain an adoption cycle for future versions of the Maine Uniform Building and Energy Code that is coordinated with the State Fire Marshal's adoption cycle and that does not lapse more than 5 years or one national model code version cycle.

**Sec. A-17. PL 2007, c. 699, §27** is amended to read:

**Sec. 27. Staggered effective date for enforcement of Maine Uniform Building and Energy Code.** A municipality that has more than 2,000 residents that has adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes, Title 10, chapter 1103 by ~~June~~December 1, 2010. Any municipality with more than 2,000 residents that has not adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code by January 1, 2012.

**Sec. A-18. Resolve 2007, c. 219, §1** is amended to read:

**Sec. 1. Study. Resolved:** That the Department of Professional and Financial Regulation shall study the issue of residential contractor licensing. The department shall include in its study a review of the various building and energy codes in existence throughout the State. The department shall report its recommendations for residential contractor licensing to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters no later than ~~January 4,~~December 1, 2010. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters may submit legislation regarding residential contractor licensing to the ~~Second~~First Regular Session of the ~~124th~~125th Legislature.

**Sec. A-19. Review.** The Technical Building Codes and Standards Board established under the Maine Revised Statutes, Title 10, section 9722 shall review issues regarding 3rd-party inspectors and inspections, including, but not limited to, tort claims protection, and make any recommendations for changes to the law, including any necessary implementing legislation, to the Joint Standing Committee on Business, Research and Economic Development no later than December 1, 2010.

**Sec. A-20. Retroactivity.** That section of this Act that amends Public Law 2007, chapter 699, section 23 applies retroactively to March 1, 2009.

## PART B

**Sec. B-1. 25 MRSA §2351,** as corrected by RR 1995, c. 2, §56 and amended by PL 2007, c. 699, §7 and affected by §26, is repealed and the following enacted in its place:

### **§ 2351. Building official; compensation; jurisdiction; deputy**

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint a building official, who must be a person skilled in the construction of buildings, and shall determine the building official's compensation. The municipal officers shall define the limits within which the building official has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers.

This section is repealed December 1, 2010.

**Sec. B-2. 25 MRSA §2351-A** is enacted to read:

### **§ 2351-A. Building official; compensation; deputy**

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint

a building official, who must be a person certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the building official's compensation. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers.

This section takes effect December 1, 2010.

**Sec. B-3. 25 MRSA §2352**, as amended by PL 1975, c. 623, §34, is further amended to read:

### **§ 2352. Right to enter buildings**

An inspector of buildings~~A building official~~ in the performance of his~~the building official's~~ official duty may enter any building for the purpose of making the inspection required by chapters 313 to 321.

**Sec. B-4. 25 MRSA §2353-A** is enacted to read:

### **§ 2353-A. Duty to inspect buildings under construction**

Unless the municipality is enforcing the Maine Uniform Building and Energy Code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall inspect each building during the process of construction for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor as the building official considers necessary concerning the construction of the building so as to render the building safe from the catching and spreading of fire.

This section takes effect December 1, 2010.

**Sec. B-5. 25 MRSA §2354**, as amended by PL 1991, c. 714, §6, is further amended to read:

### **§ 2354. Inspection of buildings being repaired**

Subject to Title 32, chapter 33, the ~~inspector of buildings~~building official shall inspect all buildings while in process of being repaired and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. The ~~inspector~~building official may give directions in writing to the owner as necessary concerning such repairs to render the building safe from the catching and spreading of fire.

**Sec. B-6. 25 MRSA §2356** is amended to read:

### **§ 2356. Appeals**

An appeal in writing may be taken from any order or direction of the ~~inspector of buildings~~building official to the municipal officers, whose order thereon ~~shall be~~ final.

**Sec. B-7. 25 MRSA §2357-A** is enacted to read:

**§ 2357-A. No occupancy without certificate; appeal**

Subject to the provisions of Title 10, chapter 951, a building may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, pursuant to the required inspections in section 2373 that the building has been built in accordance with section 2353-A, and so as to be safe from fire. The inspector of buildings may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

This section takes effect December 1, 2010.

**Sec. B-8. 25 MRSA §2358**, as amended by PL 1989, c. 502, Pt. A, §102, is further amended to read:

**§ 2358.Failure to comply with order of building official**

If the owner of any building neglects or refuses for more than 30 days to comply with any direction of the inspector of buildingsbuilding official concerning the repairs on any building as provided in section 2354, the owner ~~shall~~must be penalized in accordance with Title 30-A, section 4452.

**Sec. B-9. 25 MRSA §2359**, as repealed and replaced by PL 1995, c. 462, Pt. A, §48, is amended to read:

**§ 2359.Refusing admission to building official**

An owner or occupant of a building; who refuses to permit ~~an inspector of buildingsa~~ building official to enter the ~~buildingsbuilding~~ building or willfully obstructs the ~~inspectorbuilding official~~ building official in the inspection of ~~suchthe~~ the building as required by chapters 313 to 321; must be penalized in accordance with Title 30-A, section 4452.

**Sec. B-10. 25 MRSA §2360**, as amended by PL 1987, c. 35, §3, is further amended to read:

**§ 2360.Authority to enter buildings; remedy of conditions appeals**

The ~~inspector of buildingsbuilding official~~, the fire inspector and the municipal officers of any city or town may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdiction. Whenever any of ~~saidthose~~ those officers ~~shall~~ find in any building or upon any premises combustible material, inflammable conditions or heating fixtures or apparatus so situated or constructed as to be dangerous to the safety of such buildings or premises, they shall order the same to be removed or remedied, and such order ~~shall~~must be forthwith complied with by the owner or occupant of ~~saidthose~~ those buildings or premises. ~~If the saidAn~~ An owner or occupant ~~shall deem himself~~ aggrieved by such

order when made by the ~~inspector of buildings~~building official or the fire inspector, ~~he~~ may within 24 hours appeal to the municipal officers, and the cause of the complaint ~~shall~~must be at once investigated by the direction of the latter and, unless by their authority ~~the~~that order ~~above named~~ is revoked, ~~such~~that order ~~shall remain~~remains in force and must be forthwith complied with by ~~said~~the owner or occupant. The ~~inspector of buildings~~building official, the fire inspector or the municipal officers shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in ~~said~~those buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, ~~shall~~must be punished by a fine of not less than \$5 for each day's neglect.

**Sec. B-11. 25 MRSA §2361, sub-§1**, as enacted by PL 1985, c. 101 and amended by PL 2007, c. 699, §10 and affected by §26, is repealed and the following enacted in its place:

**1. Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal building officials and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly adopted state rules or local ordinances enacted pursuant to chapters 313 to 321. This subsection is repealed December 1, 2010; and

**Sec. B-12. 25 MRSA §2361, sub-§1-A** is enacted to read:

**1-A. Municipal enforcement.** Effective December 1, 2010, duly appointed fire chiefs or their designees, municipal building officials and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly adopted state rules or local ordinances enacted pursuant to this Part and Title 10, chapter 1103; and

**Sec. B-13. 30-A MRSA §7060, sub-§1, ¶B**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

B. Establishing adequate standards for all features of means of exit, fire protection, fire prevention, accident prevention and structural safety of buildings ~~which~~that are used occasionally or regularly for public assembly; compelling the owners to make improvements to bring these buildings up to the established standards; requiring the owner or lessee of a building used for public assembly ~~which~~that is regulated by an ordinance authorized by this section and operated with the intent of financial gain to obtain a permit for which a fee may be imposed commensurate with its size or capacity; and requiring the owner or lessee of such a building to file a plan showing all safety features as a condition precedent to the issue of a permit or the further use of one already issued.

(1) The building ~~inspector~~official shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions ~~which~~that exist in violation of an ordinance to be corrected within 30 days after the order is sent.

(2) After the 30-day period expires, the owner or lessee is strictly liable for all injury caused by the failure to correct the violations and the building ~~inspector~~official shall order the building vacated.

(3) As used in this section, "building used for public assembly" means a room or space in or on any structure ~~which~~that is used for the gathering of 100 or more persons for any purpose and includes any room or space on the same level, above or below, ~~which~~that has a common entrance; and

**Sec. B-14. 30-A MRSA §7060, sub-§2**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. A, §56 and Pt. C, §§8 and 10, is further amended to read:

**2. Additional provisions.** The provisions of this subsection apply to subsection 1.

A. The provisions pertaining to buildings apply equally to all structures and parts of them, including mobile and modular homes.

B. The building ~~inspector~~official is the licensing authority, unless otherwise provided by the plantation.

C. Ordinances defining the duties of the building ~~inspector~~official and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted. All enforcement officers designated by ordinance ~~shall~~must be given free access at reasonable hours to all parts of buildings regulated by ordinance.

D. An application for a permit must be in writing and must be signed by the applicant and directed to the building ~~inspector~~official. The failure of the building ~~inspector~~official to issue a written notice of the decision, directed to the applicant within 30 days from the filing of the application, constitutes a refusal of the permit. The building ~~inspector~~official ~~shall~~may not issue any permit:

(1) For a building or use for which the applicant is required to obtain a license under Title 38, section 413, until the applicant has obtained that license; ~~nor~~

(2) For a building or use within a land subdivision, as defined in section ~~4551~~4401, unless that subdivision has been approved in accordance with that section.

E. An appeal may be taken from any order issued by the building ~~inspector~~official or from the licensing authority's refusal to grant a permit.

(1) A person aggrieved by an order of the building ~~inspector~~official or a permit applicant may appeal in writing to the plantation assessors. At their next meeting following receipt of the appeal, the plantation assessors shall affirm, modify or set aside the decision of the building ~~inspector~~official according to the terms of the pertinent ordinance. They may permit a variation from the terms of an ordinance when necessary to avoid undue hardship, ~~provided that~~as long as there is no substantial departure from the intent of the ordinance. They may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the

plantation. The failure of the plantation assessors to issue a written notice of their decision, directed to the applicant, within 30 days from the filing of the appeal constitutes a denial of the appeal. If a plantation has by ordinance required that all such appeals be taken to a board of appeals, the procedure ~~shall~~must be the same as in appeals directed to the plantation assessors, unless the plantation has provided otherwise.

(2) An appeal may be taken from the decision of the plantation assessors or the board of appeals as provided in section 2691, subsection 3, paragraph G.

**Sec. B-15. 33 MRSA §592, sub-§7, ¶A**, as enacted by PL 1999, c. 478, §1, is amended to read:

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal ~~inspector of buildings~~building official for the time-share unit containing the time-share.

**Sec. B-16. 33 MRSA §1602-101, sub-§(b)**, as enacted by PL 1981, c. 699, is amended to read:

(b) No interest in any unit may be conveyed to a purchaser until the unit is substantially completed as evidenced by a certificate or statement of substantial completion executed by an engineer or architect, or until a certificate of occupancy is issued by the municipal ~~inspector of buildings~~building official; ~~provided~~except that this limitation ~~shall~~does not apply to contracts, options or reservations for sale of units later to be so completed ~~nor~~ to mortgages or transfers of units as security for an obligation, deeds in lieu of foreclosure, foreclosures and foreclosure sales, conveyances to successor declarants or to any person in the business of selling real estate for ~~his~~that person's own account, or to financial institutions.

Effective September 12, 2009