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An Act To Streamline the Regulatory Process for Commercial Building Construction Projects

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, construction projects require a variety of permits from a variety of permitting agencies; and

Whereas, consolidating the permitting review to a single authority will expedite the review process and thereby improve the regulatory environment in this State and improve the efficiency of State Government; and

Whereas, currently some municipalities review commercial construction projects for compliance with building, plumbing, zoning and electrical code and those municipalities exercise the principle authority for issuing construction permits in this State; and

Whereas, some municipalities currently enforce the Life Safety Code of the National Fire Protection Association for residential construction; and

Whereas, the Office of the State Fire Marshal conducts plan reviews for compliance with the Life Safety Code of the National Fire Protection Association for commercial construction; and

Whereas, some municipalities are well positioned to serve as the Life Safety Code of the National Fire Protection Association permitting authority for commercial construction in this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 25 MRSA §2448, as repealed and replaced by PL 1983, c. 232, §1 and amended by PL 2003, c. 689, Pt. B, §6 and PL 2007, c. 324, §17, is further amended to read:

§ 2448. Construction permit; when required

~~No~~ A property owner, agent or representative of the owner may not construct, alter or change the use of any structure to become a public building without first obtaining from the Commissioner of Public Safety or from a municipality designated pursuant to section 2448-A a permit ~~therefor for that purpose~~. A request for a permit ~~shall~~ must be accompanied by a true copy of the plans and specifications for that construction, reconstruction or change of use. The commissioner shall issue a permit only if the plans comply with statutes and lawful regulations ~~promulgated~~ rules adopted to reduce fire hazards.

The term "public building" ~~shall include~~includes any building or structure constructed, operated or maintained for use by the general public, which ~~shall include~~includes, but is not be limited to, all buildings or portions of buildings used for a schoolhouse, hospital, convalescent, nursing or boarding home to be licensed by the Department of Health and Human Services, Division of Licensing and Regulatory Services; theater or other place of public assembly, mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories; or any building to be ~~state-owned~~state-owned or ~~operated~~state-operated.

The term "true copy" means an accurate representation by dimensioned plans and specifications of the final construction documents.

Sec. 2. 25 MRSA §2448-A is enacted to read:

§ 2448-A. Municipal review of development

The Commissioner of Public Safety, referred to in this section as "the commissioner," may register municipalities for authority to issue permits required by section 2448 under the following conditions. For purposes of this section, "municipal reviewing authority" has the same meaning as defined in Title 30-A, section 4366, subsection 7.

1. Projects. A municipality registered pursuant to this section may review projects of public buildings that constitute a mercantile occupancy over 3,000 square feet, a hotel, a motel or a business occupancy of 2 or more stories.

2. Registration. The commissioner shall register municipalities to grant permits for projects under subsection 1 if the commissioner finds that the municipality meets all of the following criteria.

A. A municipal inspector of buildings has been appointed pursuant to section 2351.

B. The municipality has an employee that is certified as a plan reviewer by the National Fire Protection Association.

C. The municipality has adopted by reference the fire codes adopted by the Office of the State Fire Marshal pursuant to sections 2452 and 2465.

D. The municipality has adequate resources to administer and enforce the provisions of the fire codes under paragraph C.

E. The procedures for public hearing and notification have been established including:

(1) Notice to the commissioner upon receipt of an application, including a description of the project;

(2) Notice of issuance and denial to the applicant and commissioner, including the reason for denial;

(3) Public notification of the application and any hearings; and

(4) Procedures for public hearing.

F. The procedures for appeal of local decisions by aggrieved parties are defined.

G. A registration form, provided by the commissioner, has been completed and submitted by the municipality, demonstrating compliance with the criteria under this subsection.

H. The municipality is currently enforcing the Maine Uniform Building and Energy Code.

The Department of Public Safety shall publish on its publicly accessible website a list of those municipalities that are registered pursuant to this subsection.

3. Current requirements. A municipality registered under this section shall ensure that its municipal regulations continue to meet the criteria listed in subsection 2.

A. The commissioner shall immediately notify a registered municipality of new or amended rules.

B. A municipality shall adopt amendments to its municipal regulations within one calendar year of the effective date of new or amended rules adopted by the Department of Public Safety. Within 45 days of the adoption of the amended municipal regulations, the municipality shall submit the amendments for approval by the commissioner.

4. Suspension of registration. If the commissioner finds that a municipality no longer meets the criteria under subsection 2, or is not adequately implementing those requirements, the commissioner may suspend the registration under subsection 2 and shall immediately notify the municipality. The notice must contain findings of fact and conclusions of law. If the registration is suspended, the commissioner shall provide the municipality with the necessary procedures to come into compliance with this section.

5. Central list of pending projects. The commissioner shall maintain and make available a list of projects that are pending municipal review under this section.

6. Technical assistance. The commissioner may provide technical assistance to municipalities upon request for projects reviewed under this section.

7. Application review process. Upon determination by the municipal reviewing authority that an application for a permit or permit amendment under this section is complete for processing:

A. The municipal reviewing authority shall submit to the commissioner within 14 days of that determination one copy of the project application; and

B. The commissioner shall review the application and, within 30 days of its receipt or within 30 days of receipt of any subsequent amendment to the application, notify the municipality if the Department of Public Safety intends to exercise jurisdiction as provided in subsection 9.

A failure of the commissioner to act within the 30-day period following receipt of the application for a permit or within 30 days of receipt of any amendment to the application constitutes a decision not to exercise jurisdiction as provided in subsection 9.

8. Record of review and basis for decision. The municipality shall submit to the commissioner one copy of the record of the review of the application for a permit or permit amendment and basis of the decision for each permit or permit amendment granted pursuant to this section within 40 working days of final action by the municipal reviewing authority.

9. State jurisdiction. The Department of Public Safety shall review projects and exercise jurisdiction for a registered municipality if:

A. The municipal reviewing authority in which the project is located petitions the commissioner in writing; or

B. The proposed project is located in more than one municipality.

10. Joint enforcement. A permit or permit amendment issued by a municipal reviewing authority may be enforced by either the commissioner or the municipality that issued the permit or permit amendment.

Sec. 3. 25 MRSA §2450, as amended by PL 2007, c. 699, §12, is further amended to read:

§ 2450. Examinations by Department of Public Safety

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Department of Public Safety. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450, except as provided in section 2450-A. ~~The~~Except for projects reviewed by a municipality pursuant to section 2448-A, the fees must be credited to a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years. For projects reviewed by a municipality that include occupied spaces, a 1¢ fee per square foot must be remitted to the Department of Public Safety and a 4¢ fee per square foot must be paid to the municipality.

A municipality is prohibited from charging a developer a fee that is in excess of the 4¢ fee per square foot for fire code permits. This limitation does not prohibit a municipality from charging fees for other construction-related permits.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

PUBLIC Law, Chapter 364 LD 1242, item 1, 124th Maine State Legislature
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Effective June 11, 2009.