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Date: (Filing No. H-)

HOUSING AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1412, L.D. 2097, “An Act to Modify the Law Governing Revocation of a Code Enforcement Officer's Certification”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 30-A MRSA §4221, sub-§2, as amended by PL 2011, c. 655, Pt. FF, §7 and affected by §16, is further amended to read:

2. Certification requirements. A person may not hold the office of plumbing inspector unless currently certified as qualified pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the District Court as provided for in section 4451 ~~4451-G~~.

Sec. 2. 30-A MRSA §4450 is enacted to read:

§4450. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Certificate holder. "Certificate holder" means an individual holding a code enforcement officer certificate issued under section 4451 by the former State Planning Office, the Department of Economic and Community Development, Office of Community Development, the Department of Public Safety, Office of the State Fire Marshal or the Maine Office of Community Affairs.

2. Certification review committee. "Certification review committee" or "committee" means the committee established in section 4451-A, subsection 1.

3. Division director. "Division director" means the senior employee responsible for technical codes coordination in the Division of Building Codes and Standards established within the Maine Office of Community Affairs in Title 25, section 2372.

4. Staff. "Staff" means an employee or contractor of the Maine Office of Community Affairs established in Title 5, section 3202.

COMMITTEE AMENDMENT

1 **Sec. 3. 30-A MRSA §4451, sub-§1, ¶D**, as amended by PL 2025, c. 388, Pt. D,
2 §38, is further amended to read:

3 D. An individual whose certification has expired or is about to expire may be
4 temporarily authorized in writing by the Maine Office of Community Affairs to extend
5 that individual's certification for a period not to exceed 12 months in cases where the
6 necessary training or examination is suspended under subsection 3-B, paragraph E,
7 except that beginning July 20, 2026 and ending July 20, 2028, the Maine Office of
8 Community Affairs may extend an individual's certification for a period not to exceed
9 24 months.

10 **Sec. 4. 30-A MRSA §4451, sub-§6**, as amended by PL 2025, c. 388, Pt. D, §38, is
11 further amended to read:

12 **6. Certification; terms; revocation.** The Maine Office of Community Affairs shall
13 certify individuals as to their competency to successfully enforce ordinances and other land
14 use regulations and permits granted under those ordinances and regulations and shall issue
15 certificates attesting to the competency of those individuals to act as code enforcement
16 officers. Certificates issued by the former State Planning Office, the Department of
17 Economic and Community Development, Office of Community Development, the
18 Department of Public Safety, Office of the State Fire Marshal or the Maine Office of
19 Community Affairs are valid for 6 years unless revoked by the District Court or suspended
20 as provided for in section 4451-G. An examination is not required for recertification of
21 code enforcement officers. The Maine Office of Community Affairs shall recertify a code
22 enforcement officer if the code enforcement officer successfully completes at least 12 hours
23 of approved training in each area of job responsibility during the 6-year certification period.

24 A. ~~The District Court may revoke the certificate of a code enforcement officer, in~~
25 ~~accordance with Title 4, chapter 5, when it finds that:~~

26 (1) ~~The code enforcement officer has practiced fraud or deception;~~

27 (2) ~~Reasonable care, judgment or the application of a duly trained and~~
28 ~~knowledgeable code enforcement officer's ability was not used in the performance~~
29 ~~of the duties of the office; or~~

30 (3) ~~The code enforcement officer is incompetent or unable to perform properly the~~
31 ~~duties of the office.~~

32 B. ~~Code enforcement officers whose certificates are invalidated under this subsection~~
33 ~~may be issued new certificates provided that they are newly certified as provided in~~
34 ~~this section.~~

35 **Sec. 5. 30-A MRSA §4451-A** is enacted to read:

36 **§4451-A. Certification review committee**

37 **1. Certification review committee; established.** The certification review committee
38 is established to receive, review, investigate when appropriate and respond to complaints
39 regarding any violation of this subchapter or rules established by the Technical Building
40 Codes and Standards Board or the Maine Office of Community Affairs by a certificate
41 holder.

1 **2. Certification review committee; membership.** The division director shall appoint
2 7 members to serve on the committee. The division director shall name one member as
3 chair and one member as secretary of the committee.

4 A. Two of the members must be members of the Technical Building Codes and
5 Standards Board, established in Title 5, section 12004-G, subsection 5-A, one of whom
6 must hold a certification pursuant to section 4221 or 4451.

7 B. The remaining 5 members must be residents of this State who have professional
8 experience and familiarity with the topic areas for which the Division of Building
9 Codes and Standards issues certifications, except they may not be members of the
10 Technical Building Codes and Standards Board. At least one of the 5 members must
11 be selected from a list of names provided to the division director by a statewide
12 organization representing code enforcement officers.

13 **3. Quorum.** A majority of the members of the committee, including at least one
14 Technical Building Codes and Standards Board member, constitutes a quorum and must be
15 present for deliberations and votes. A majority vote of all members present is necessary
16 for any action or to recommend taking corrective or disciplinary action on a complaint or
17 to order an independent investigation pursuant to section 4451-D or 4451-E.

18 **Sec. 6. 30-A MRSA §4451-B** is enacted to read:

19 **§4451-B. Receipt and review of complaints**

20 Upon the request of the division director or upon the committee's own motion, the
21 committee shall review complaints about a certificate holder received regarding
22 noncompliance with or violation of this subchapter or rules adopted by the Technical
23 Building Codes and Standards Board established in Title 5, section 12004-G, subsection
24 5-A or the Maine Office of Community Affairs and recommend appropriate action to the
25 division director.

26 **Sec. 7. 30-A MRSA §4451-C** is enacted to read:

27 **§4451-C. Notice; response**

28 Before proceeding with any investigation regarding a complaint filed against a
29 certificate holder, the division director, the committee or staff shall notify the certificate
30 holder, the municipality, state agency or entity employing the certificate holder and the
31 administrators of the jurisdiction in which the complaint originates of the content of a
32 complaint filed against the certificate holder and that an investigation of the complaint may
33 occur. Notice must be given as soon as possible, but no later than 60 days after the division
34 director, the committee or staff receives the complaint or other pertinent information.

35 **1. Certificate holder response.** The certificate holder has the right to respond to the
36 complaint within 30 days of receiving notice of the complaint in all cases except those
37 involving an emergency refusal to renew or an emergency suspension or revocation of a
38 certificate, as described in Title 5, chapter 375, section 10004.

39 **2. Review and response by employer.** Within 30 days of receiving notice of a
40 complaint, the municipality, state agency or entity employing the certificate holder shall
41 review the alleged conduct of the certificate holder or otherwise respond to the complaint
42 and, notwithstanding any provision of law to the contrary, report the findings of the review
43 to the division director along with a recommended disposition.

1 **3. Jurisdiction's response.** The administrators of the jurisdiction in which the
2 complaint originates may respond to the division director with supplementary information
3 and recommendations relevant to the complaint.

4 This section does not preclude a municipality, state agency or entity employing a
5 certificate holder from investigating and taking appropriate action, up to and including
6 termination of employment, before it receives notice from the division director, the
7 committee or staff under this section, as long as the municipality, state agency or entity
8 notifies the division director following its investigation if the investigation reveals
9 reasonable cause to believe that a certificate holder has engaged in conduct subject to
10 disciplinary action and provides to the division director the findings related to the conduct.

11 This section does not preclude the division director from investigating the conduct of
12 a certificate holder on the division director's own initiative.

13 **Sec. 8. 30-A MRSA §4451-D** is enacted to read:

14 **§4451-D. Further action**

15 The division director may proceed with any action the division director determines
16 appropriate after the response time periods in subsection 4451-C have passed. Further
17 action may include, but is not limited to, the following:

18 **1. Dismissal of complaint.** If the certificate holder's response to the complaint or other
19 information related to the complaint satisfies the division director, the committee or staff
20 that the complaint does not merit further investigation or action, the matter may be
21 dismissed by the division director or the committee, with notice of the dismissal to the
22 certificate holder and the complainant, if any;

23 **2. Referral.** The division director may refer the matter of the complaint to another
24 agency for investigation regardless of whether the division director receives a response
25 under section 4451-C, with notice of the referral to the certificate holder; or

26 **3. Investigation.** The division director at the division director's sole discretion or, as
27 delegated, the committee or staff, may investigate a complaint that is not dismissed or
28 referred under this section. An investigation may include an informal conference under
29 section 4451-E to determine whether grounds exist to deny an application for a certification
30 or recertification or for modification, suspension or revocation of a certificate or for taking
31 other disciplinary action pursuant to this section and section 4451-G. The division director
32 or the committee may contract with outside investigators or agencies for use of their
33 investigators through memoranda of understanding or other written agreement. The
34 division director, the committee or staff may subpoena witnesses, records and documents
35 in any investigation or hearing conducted.

36 **Sec. 9. 30-A MRSA §4451-E** is enacted to read:

37 **§4451-E. Informal conference**

38 If, in the opinion of the division director, the committee or staff, the factual basis of the
39 complaint is or may be true and the complaint is of sufficient gravity to warrant further
40 action, the division director, the committee or staff may request an informal conference
41 with the certificate holder either prior to or during an investigation. The division director,
42 the committee or staff shall provide the certificate holder with adequate notice of the

1 conference and of the issues to be discussed. The certificate holder may, without prejudice,
2 refuse to participate in an informal conference.

3 **Sec. 10. 30-A MRSA §4451-F** is enacted to read:

4 **§4451-F. Grounds for action**

5 The division director or the committee may take action against an applicant for a
6 certificate or a certificate holder pursuant to this subchapter or any rules adopted pursuant
7 to this subchapter, including, but not limited to, a decision to refuse to issue or renew a
8 certificate or to modify, suspend or revoke a certificate for one or more of the following
9 reasons:

10 **1. Certification or recertification requirements.** Failing to meet certification or
11 recertification requirements;

12 **2. Material facts.** Falsifying or misrepresenting material facts in obtaining or
13 maintaining a certificate issued pursuant to section 4451;

14 **3. Dishonest, fraudulent or illegal conduct; intentional misconduct.** Engaging in
15 conduct constituting dishonest, fraudulent or illegal dealings or intentional misconduct that,
16 when viewed in light of the nature and purpose of the person's conduct and circumstances
17 known to the person, involves deviation from the standard of conduct, as defined in rule,
18 that a reasonable and prudent certificate holder would observe in the same or a similar
19 situation; or

20 **4. Duties authorized.** Repeatedly failing to effectively perform the duties authorized
21 by the issued certificate.

22 **Sec. 11. 30-A MRSA §4451-G** is enacted to read:

23 **§4451-G. Action after investigation**

24 If the division director or the committee finds that the factual basis of the complaint is
25 true and is of sufficient gravity to warrant further action, the division director or the
26 committee may take any of the following actions.

27 **1. Letter of guidance or concern.** The division director may issue a letter of guidance
28 or concern to a certificate holder. A letter of guidance or concern may be used to educate,
29 reinforce knowledge regarding legal or professional obligations or express concern over
30 action or inaction by the certificate holder that does not rise to the level of misconduct
31 sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is
32 not a formal proceeding and does not constitute an adverse disciplinary action.
33 Notwithstanding any provision of law to the contrary, letters of guidance or concern are
34 not confidential. The division director may place letters of guidance or concern, together
35 with any underlying complaint, report and investigation materials, in a certificate holder's
36 file for a specified period of time not to exceed 10 years. Any letters, complaints and
37 materials placed on file may be accessed and considered by the division director in any
38 subsequent action commenced against the certificate holder within the specified time
39 frame. Complaints, reports and investigation materials placed on file remain confidential
40 to the extent required by this subchapter.

41 **2. Consent agreement.** The division director, the committee or staff may negotiate a
42 consent agreement that resolves a complaint or investigation without further proceedings.
43 A consent agreement may be entered into only with the consent of the certificate holder

1 and the division director. Notwithstanding any provision of law to the contrary, any
2 remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction
3 of the Superior Court, may be achieved by consent agreement, including long-term
4 modification, suspension and permanent revocation of a certificate issued under this
5 subchapter. A consent agreement is not subject to review or appeal and may be modified
6 only by a writing executed by the certificate holder and the division director. A consent
7 agreement is enforceable by an action in Superior Court.

8 **3. Voluntary surrender of certificate.** If a certificate holder offers to voluntarily
9 surrender a certificate, the division director, the committee or staff may negotiate
10 stipulations necessary to ensure protection of the public health and safety and the
11 rehabilitation or education of the certificate holder. These stipulations may be set forth
12 only in a consent agreement entered into between the division director and the certificate
13 holder.

14 **4. Modification, suspension, revocation of certificate or other sanction or**
15 **discipline.** The division director or the committee may impose the following forms of
16 discipline upon a certificate holder or applicant for a certificate:

17 A. Denial of an application for a certificate or recertification, which may occur in
18 conjunction with the imposition of another form of discipline;

19 B. Issuance of a written warning, censure or reprimand;

20 C. Suspension of a certificate for up to 3 years. Execution of all or any portion of a
21 term of suspension may be stayed pending successful completion of conditions of
22 probation imposed pursuant to paragraph F, except that the suspension remains part of
23 the certificate holder's record;

24 D. Revocation of a certificate;

25 E. Modification of a certificate; or

26 F. Imposition of conditions of probation. Probation may run for a time period that the
27 division director determines appropriate. Probation may include conditions such as
28 additional continuing education, mandatory professional supervision of the applicant
29 or certificate holder, restrictions and other conditions as the division director
30 determines appropriate. Costs incurred in the performance of terms of probation are
31 borne by the applicant or certificate holder. Failure to comply with the conditions of
32 probation may be grounds for disciplinary action against a certificate holder.

33 **5. Request for adjudicatory hearing.** Unless otherwise indicated in this subchapter,
34 if the division director or the committee concludes that modification, suspension,
35 revocation or imposition of any other sanction or discipline authorized under this
36 subchapter is in order, the division director, the committee or staff shall notify the
37 certificate holder and inform the certificate holder of the right to request an adjudicatory
38 hearing. If the certificate holder requests an adjudicatory hearing in writing within 21 days,
39 the hearing must be held by a subcommittee of 3 committee members designated by the
40 committee chair or a hearing officer, at the committee's sole discretion. The hearing must
41 be in accordance with Title 5, chapter 375, subchapter 4 and must be held within 60 days
42 of the certificate holder's request for hearing. The subcommittee or the hearing officer,
43 after conducting the hearing, shall file with the committee all papers connected with the

1 case and report recommended findings and sanctions to the committee, which may, in
2 consultation with the division director, approve or modify them.

3 If, after the adjudicatory hearing, the certificate holder wishes to appeal the final decision
4 of the division director or the committee, the certificate holder shall file a petition for
5 review pursuant to the Maine Rules of Civil Procedure, Rule 80C with the Superior Court
6 within 30 days of receipt of the division director's or the committee's written decision.
7 Review under this subsection must be conducted pursuant to Title 5, chapter 375,
8 subchapter 7. If a request for a hearing is not filed within 21 days, the certificate holder is
9 deemed to have waived any right to hearing and the division director may, in consultation
10 with the committee, impose any sanction or discipline allowed by this subchapter.

11 **6. Injunction.** The State may bring an action in Superior Court to enjoin a person
12 from violating any provision of this subchapter, regardless of whether civil or
13 administrative proceedings have been or may be instituted.

14 **7. Recertification.** A person whose certificate has been revoked under this subchapter
15 may apply to the division director for reinstatement of certification if at least one year has
16 elapsed since revocation of the certificate and the person is otherwise eligible for
17 reinstatement. The granting of recertification under this subsection is governed by rules
18 adopted by the Maine Office of Community Affairs pursuant to section 4451-I relating to
19 certification. The person is subject to all training requirements applicable to persons whose
20 certification has lapsed.

21 **Sec. 12. 30-A MRS §4451-H** is enacted to read:

22 **§4451-H. Confidentiality; access to documents; public records**

23 All complaints, charges or accusations of misconduct, replies to those complaints,
24 charges or accusations and any other information or materials that are considered by the
25 division director or the committee are confidential. If a person subject to this chapter
26 requests an adjudicatory hearing under the Maine Administrative Procedure Act, that
27 hearing must be open to the public. The subcommittee or hearing officer that presides over
28 the hearing shall issue a written decision that states the conduct or other facts on the basis
29 of which action is being taken and the reason for that action. Once issued, the written
30 decision is a public record under the Freedom of Access Act, regardless of whether it is
31 appealed. Any action taken by the division director pursuant to this subchapter as a result
32 of a complaint, charge or accusation must be supported by a statement of findings and must
33 be issued as a written decision of the division director. The written decision of the division
34 director and findings are public records under the Freedom of Access Act.

35 **Sec. 13. 30-A MRS §4451-I** is enacted to read:

36 **§4451-I. Rulemaking**

37 The Maine Office of Community Affairs may adopt rules necessary to implement this
38 subchapter. Rules adopted pursuant to this section are routine technical rules as defined in
39 Title 5, chapter 375, subchapter 2-A.'

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
41 number to read consecutively.

SUMMARY

1
2 This amendment, which is the majority report of the committee, replaces the bill and
3 does the following.

4 1. It reorganizes the bill to provide clarity.

5 2. It replaces the definition of "director" with a definition of "division director" and
6 replaces the word "director" with "division director" throughout the bill.

7 3. It adds definitions of "certificate holder" and "certification review committee."

8 4. It allows the Maine Office of Community Affairs to extend a code enforcement
9 officer's certification for up to 24 months between July 20, 2026 and July 20, 2028.

10 5. It clarifies that a certificate holder may be employed by a municipality, a state
11 agency or an entity.

12 6. It removes the requirement that a certificate holder's employer investigate a
13 complaint filed with the Division of Building Codes and Standards.

14 7. It removes the requirement that a certificate holder's employer share information,
15 other than findings, from the employer's investigation of the certificate holder.

16 8. It removes the civil penalty option for a violation of laws or rules applicable to the
17 work of a certificate holder.

18 9. It adds a requirement that a certificate holder be notified if the complaint against the
19 certificate holder is dismissed.

20 10. It makes confidential all complaints, charges or accusations of misconduct and any
21 other information or materials that are considered by the division director or the committee.

22 **FISCAL NOTE REQUIRED**

23 (See attached)