

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 Liability of 3rd-party Building Inspectors

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

Whereas, 3rd-party inspectors are authorized to inspect buildings under the Maine Uniform Building and Energy Code; and

Whereas, 3rd-party inspectors are having a difficult time obtaining liability insurance; and

Whereas, for the efficient implementation of the Maine Uniform Building and Energy Code, this Act must take effect before the 90 days after adjournment; 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. 14 MRSA §8102, sub-§1, as amended by PL 2003, c. 489, §1, is further amended to read:

1. Employee. "Employee" means a person acting on behalf of a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216; members of the Maine National Guard but only while performing state active service pursuant to Title 37-B; sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135; persons acting as 3rd-party inspectors on behalf of a state, county or local governmental entity pursuant to Title 10, section 9723 or Title 25, section 2373; and persons while performing a search and rescue activity when requested by a state, county or local governmental entity, but the term "employee," with the exception of 3rd-party inspectors, does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

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

SUMMARY

This bill clarifies the law to ensure that 3rd-party inspectors acting pursuant to the Maine Uniform Building and Energy Code or a local building code have the same protection from liability under the Maine Tort Claims Act as other persons acting on behalf of a governmental entity.