

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

An Act Regarding Building Codes

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

Sec. 1. 10 MRSA §9724, sub-§1, as amended by PL 2011, c. 408, §4, is further amended to read:

1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. The Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 4,000 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 4,000 residents and that has not adopted any building code by August 1, 2008. Beginning July 1, 2020, the Maine Uniform Building and Energy Code must be enforced in all municipalities. The Maine Uniform Building and Energy Code must be enforced through inspections that comply with Title 25, section 2373.

Sec. 2. 10 MRSA §9724, sub-§1-A, as enacted by PL 2011, c. 408, §5, is repealed.

Sec. 3. 10 MRSA §9724, sub-§1-B, as enacted by PL 2011, c. 505, §1, is repealed.

Sec. 4. 10 MRSA §9724, sub-§5, as amended by PL 2011, c. 582, §1, is further amended to read:

5. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. If such an ordinance does not provide for a process to appeal decisions made by building officials administering and enforcing ~~the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code~~, an appeal may be taken in the same manner as provided under Title 30-A, section 4103, subsection 5. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth the swimming pool fencing standards, without amendment, contained in Appendix G of the 2nd edition of the 2009 International Residential Code.

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

- (1) Log homes or manufactured housing as defined in chapter 951;
- (2) Post and beam or timber frame construction; ~~or~~
- (3) Warehouses or silos used to store harvested crops; or

(4) Houses constructed and occupied prior to January 1, 2007 or any modification of or addition to houses constructed and occupied prior to January 1, 2007 other than a complete demolition and rebuilding of the house. Notwithstanding any other provision of law to the contrary, a municipality may not require architectural plans to be filed with the municipality for any construction covered by this subparagraph.

Sec. 5. 10 MRSA §9724, sub-§6, as enacted by PL 2011, c. 582, §2, is amended to read:

6. Adoption by reference. ~~The Maine Uniform Building Code, the Maine Uniform Energy Code and the Maine Uniform Building and Energy Code~~ may be adopted by reference by a municipality as specified in Title 30-A, section 3003.

Sec. 6. 25 MRSA §2351-A, as amended by PL 2011, c. 582, §3, is further amended 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 and shall determine the building official's compensation. ~~If a building official is appointed by a municipality that has adopted or is enforcing the Maine Uniform Building and Energy Code or a portion of the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724,~~ that No later than July 1, 2020, the building official must be certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E. 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.

Sec. 7. 25 MRSA §2357-A, as amended by PL 2011, c. 582, §6, is further amended to read:

§ 2357-A. No occupancy without certificate; appeal

A building in a municipality of more than 2,000 inhabitants may not be occupied until the building official has given a certificate of occupancy for compliance with the inspections required by section 2353-A. ~~A~~ In accordance with the application provisions of Title 10, section 9724, a building in a municipality of more than 2,000 inhabitants that has adopted or is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724 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, and in accordance with the required enforcement and inspection options provided in section 2373. The building official 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 pursuant to Title 30-A, section 4103, subsection 5 or through an alternative appeal process that has been established by ordinance pursuant to Title 10, section 9724, subsection 5. If on such appeal it is decided that section 2353-A has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

Sec. 8. 25 MRSA §2373, as amended by PL 2011, c. 408, §6 and c. 633, §10, is further amended to read:

§ 2373. Municipal inspection options

The code must be enforced in a municipality ~~that has more than 4,000 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 4,000 residents and that has not adopted any building code by August 1, 2008~~in accordance with Title 10, section 9724. The code must be enforced through inspections that comply with the code through any of the following means:

- 1. Building officials.** Building officials and local code enforcement officers;
- 2. Interlocal agreements.** Interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723;
- 3. Contractual agreements.** Contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and
- 4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in section 2357-A that are obtained pursuant to independent contractual arrangements between the ~~building owner and 3rd-party inspector or the municipality and 3rd-party inspector. A municipality that relies on 3rd-party inspectors must contract with one or more 3rd-party inspectors selected through a competitive bidding process. Nothing in this subsection prohibits 3rd-party inspectors from jointly bidding on any competitive solicitation by a municipality.~~

SUMMARY

This bill amends laws relating to the Maine Uniform Building and Energy Code.

1. It provides that beginning July 1, 2020, the Maine Uniform Building and Energy Code must be enforced in all municipalities regardless of population.
2. It exempts a house constructed and occupied prior to January 1, 2007 or any modification of or addition to a house constructed and occupied prior to January 1, 2007 other than a complete demolition and rebuilding of the house from the requirements of the Maine Uniform Building and Energy Code. A municipality is prohibited from requiring architectural plans to be filed for such a modification or addition.
3. It removes the option for municipalities to use 3rd-party inspectors contracted and paid for by building owners and requires municipalities that use 3rd-party inspectors to contract directly with these

inspectors and to select them through a competitive bidding process. It allows 3rd-party inspectors to jointly bid on a competitive solicitation by a municipality.