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No. 1787

H.P. 1312

House of Representatives, January 19, 2012

An Act To Create Efficiencies in the Administration and Enforcement of the Maine Uniform Building and Energy Code

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PRESCOTT of Topsham.

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

2 **Sec. 1. 5 MRSA §948, sub-§1, ¶L**, as amended by PL 2009, c. 317, Pt. A, §1, is
3 further amended to read:

4 L. Director, Maine Emergency Medical Services; and

5 **Sec. 2. 5 MRSA §948, sub-§1, ¶M**, as enacted by PL 2009, c. 317, Pt. A, §1, is
6 amended to read:

7 M. Director, Bureau of Consolidated Emergency Communications; ~~and.~~

8 **Sec. 3. 5 MRSA §948, sub-§1, ¶N**, as enacted by PL 2009, c. 317, Pt. A, §1, is
9 repealed.

10 **Sec. 4. 10 MRSA §9042, sub-§3**, as amended by PL 2005, c. 344, §19, is further
11 amended to read:

12 **3. Exemption.** Notwithstanding the provisions of Title 25, section ~~2357~~ 2357-A and
13 Title 30-A, section 4358, new manufactured housing that is manufactured, brokered,
14 distributed, sold, installed or serviced in compliance with this chapter is exempt from all
15 state or other political subdivision codes, standards, rules or regulations that regulate the
16 same matters. A building permit or certificate of occupancy may not be delayed, denied
17 or withheld on account of any alleged failure of new manufactured housing to comply
18 with any code, standard, rule or regulation from which the new manufactured housing is
19 exempt under this subsection.

20 **Sec. 5. 10 MRSA §9722, sub-§1**, as enacted by PL 2007, c. 699, §6, is amended
21 to read:

22 **1. Establishment.** The Technical Building Codes and Standards Board, established
23 in Title 5, section 12004-G, subsection 5-A and located within the Department of Public
24 Safety, Office of the State Fire Marshal, is established to adopt, amend and maintain the
25 Maine Uniform Building and Energy Code, to resolve conflicts between the Maine
26 Uniform Building and Energy Code and the fire and life safety codes in Title 25, sections
27 2452 and 2465 and to provide for training for municipal building officials, local code
28 enforcement officers and 3rd-party inspectors.

29 **Sec. 6. 10 MRSA §9723, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended
30 to read:

31 **2. Training program standards; implementation.** The committee shall direct the
32 training coordinator of the ~~Bureau~~ Division of Building Codes and Standards, established
33 in Title 25, section 2372, to develop a training program for municipal building officials,
34 local code enforcement officers and 3rd-party inspectors. The ~~Executive Department,~~
35 ~~State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A,~~ division shall
36 implement, or cause to be implemented, the training and certification program established
37 under this chapter.

1 **Sec. 7. 25 MRSA §2351-A, first ¶**, as enacted by PL 2009, c. 261, Pt. B, §2, is
2 amended to read:

3 In every town and city of more than ~~2,000~~ 4,000 inhabitants, and in every town of
4 ~~2,000~~ 4,000 inhabitants or less, if such a town so votes at a town meeting, and in each
5 village corporation, if such a corporation so votes at the annual meeting of the
6 corporation, the municipal officers shall annually in the month of April appoint a building
7 official, who must be a person certified in building standards pursuant to Title 30-A,
8 section 4451, subsection 2-A, paragraph E, and shall determine the building official's
9 compensation. Whenever the building official becomes incapacitated, the municipal
10 officers may appoint or authorize the building official to appoint a deputy building
11 official, who shall serve until removed by the municipal officers, but in no event beyond
12 the term for which the building official was appointed. The deputy building official shall
13 perform such duties as may be required of the deputy building official by the building
14 official. The compensation of the deputy building official is determined by the municipal
15 officers.

16 **Sec. 8. 25 MRSA §2357-A, first ¶**, as amended by PL 2011, c. 365, §7, is further
17 amended to read:

18 A building in a municipality of more than ~~2,000~~ 4,000 inhabitants may not be
19 occupied until the building official has given a certificate of occupancy for compliance
20 with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter
21 1103, and in accordance with the required enforcement and inspection options provided
22 in section 2373. The building official may issue the certificate of occupancy upon receipt
23 of an inspection report by a certified 3rd-party inspector pursuant to section 2373,
24 subsection 4. The municipality has no obligation to review a report from a 3rd-party
25 inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits
26 it to be so occupied without such certificate, the owner must be penalized in accordance
27 with Title 30-A, section 4452. In case the building official for any cause declines to give
28 that certificate and the builder has in the builder's own judgment complied with section
29 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 and, if
30 on such appeal it is decided that section 2353-A has been complied with, the owner of the
31 building is not liable to a fine for want of the certificate of the building official.

32 **Sec. 9. 25 MRSA §2371, sub-§3**, as enacted by PL 2007, c. 699, §11, is repealed.

33 **Sec. 10. 25 MRSA §2371, sub-§5-A** is enacted to read:

34 **5-A. Division.** "Division" means the Division of Building Codes and Standards
35 established in section 2372.

36 **Sec. 11. 25 MRSA §2371, sub-§6**, as amended by PL 2011, c. 365, §9, is further
37 amended to read:

38 **6. Third-party inspector.** "Third-party inspector" means a person certified by the
39 State to conduct inspections under Title 30-A, section 4451 for compliance with the code.
40 A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any
41 building for which the 3rd-party inspector issues an inspection report pursuant to section

1 2373 and may not serve as a 3rd-party inspector in any municipality where that 3rd-party
2 inspector has been be appointed as a building official or code enforcement officer.

3 **Sec. 12. 25 MRSA §2372**, as enacted by PL 2007, c. 699, §11, is amended to
4 read:

5 **§2372. Division of Building Codes and Standards**

6 **1. Established.** The ~~Bureau~~ Division of Building Codes and Standards is established
7 within the Department of Public Safety, Office of the State Fire Marshal to provide
8 administrative support and technical assistance to the board in executing its duties
9 pursuant to Title 10, section 9722, subsection 6.

10 **2. Staff.** The commissioner may appoint or remove for cause staff of the ~~bureau~~
11 division, including:

12 A. A technical codes coordinator ~~certified in building standards pursuant to Title~~
13 ~~30-A, section 4451, subsection 2-A, paragraph E,~~ who serves as the ~~bureau~~ division
14 director and principal administrative and supervisory employee of the board. The
15 technical codes coordinator shall attend meetings of the board, keep records of the
16 proceedings of the board and direct and supervise the personnel employed to carry
17 out the duties of the board, including but not limited to providing technical support
18 and public outreach for the adoption of the code, amendments, conflict resolutions
19 and interpretations. Technical support and public outreach must include, but may not
20 be limited to:

21 (1) Providing nonbinding interpretation of the code for professionals and the
22 general public; and

23 (2) Establishing and maintaining a publicly accessible website to publish general
24 technical assistance, code updates and interpretations and post-training course
25 schedules; and

26 B. An office specialist to provide administrative support to the ~~bureau~~ division and
27 the board.

28 **Sec. 13. 25 MRSA §2373, sub-§4**, as enacted by PL 2007, c. 699, §11, is
29 amended to read:

30 **4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to
31 Title 10, section 9723 submitted to the building official prior to obtaining a certificate of
32 occupancy in section ~~2357~~ 2357-A that are obtained pursuant to independent contractual
33 arrangements between the building owner and 3rd-party inspector or the municipality and
34 3rd-party inspector.

35 **Sec. 14. 25 MRSA §2374**, as amended by PL 2009, c. 213, Pt. M, §3, is further
36 amended to read:

1 **§2374. Uniform Building Codes and Standards Fund**

2 The Uniform Building Codes and Standards Fund, referred to in this section as "the
3 fund," is established within the Department of Public Safety to fund the activities of the
4 ~~bureau~~ division under this chapter and the activities of the board under Title 10, chapter
5 1103 ~~and the Executive Department, State Planning Office under Title 30-A, section~~
6 ~~4451, subsection 3-A~~. Revenue for this fund is provided by the surcharge established by
7 section 2450-A. The Department of Public Safety ~~and the Executive Department, State~~
8 ~~Planning Office~~ shall ~~together~~ determine an amount to be transferred annually from the
9 fund for training and certification under Title 30-A, section 4451, subsection 3-A to the
10 Maine Code Enforcement Training and Certification Fund established in Title 30-A,
11 section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried
12 forward as a continuing account to be expended for the same purpose in the following
13 fiscal year.

14 **Sec. 15. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is amended to
15 read:

16 **§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards**
17 **Fund**

18 In addition to the fees established in section 2450, a surcharge of 4¢ per square foot
19 of occupied space must be levied on the existing fee schedule for new construction,
20 reconstruction, repairs, renovations or new use for the sole purpose of funding the
21 activities of the Technical Building Codes and Standards Board with respect to the Maine
22 Uniform Building and Energy Code, established pursuant to ~~the~~ Title 10, chapter 1103;
23 and the activities of the Bureau Division of Building Codes and Standards under chapter
24 ~~314 and the activities of the Executive Department, State Planning Office under Title~~
25 ~~30-A, section 4451, subsection 3-A~~, except that the fee for review of a plan for the
26 renovation of a public school, including the fee established under section 2450, may not
27 exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform
28 Building Codes and Standards Fund established by section 2374.

29 **Sec. 16. 25 MRSA §2901**, as amended by PL 2009, c. 317, Pt. E, §3, is further
30 amended to read:

31 **§2901. Department; commissioner**

32 There is created and established the Department of Public Safety to coordinate and
33 efficiently manage the law enforcement and public safety responsibilities of the State, to
34 consist of the Commissioner of Public Safety, in this chapter called "commissioner," who
35 is appointed by the Governor, subject to review by the joint standing committee of the
36 Legislature having jurisdiction over criminal justice matters and to confirmation by the
37 Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of
38 State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy,
39 the Bureau of Highway Safety, the Maine Drug Enforcement Agency, Maine Emergency
40 Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated Emergency
41 Communications, ~~the Bureau of Building Codes and Standards~~ and the Gambling Control
42 Unit.

