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Legislative Document

No. 1120

S.P. 392

In Senate, March 26, 2015

An Act To Repeal the Maine Uniform Building and Energy Code

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Representative STANLEY of Medway and
Senators: BRAKEY of Androscoggin, DILL of Penobscot, GERZOFKY of Cumberland,
President THIBODEAU of Waldo, WHITTEMORE of Somerset, Representatives:
BICKFORD of Auburn, BLACK of Wilton, MALABY of Hancock.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§5-A**, as enacted by PL 2007, c. 699, §1, is
3 repealed.

4 **Sec. 2. 10 MRSA c. 1103**, as amended, is repealed.

5 **Sec. 3. 22 MRSA §776, sub-§2**, as amended by PL 2011, c. 144, §3, is repealed.

6 **Sec. 4. 25 MRSA §2351-A**, as amended by PL 2011, c. 582, §3, is further
7 amended to read:

8 **§2351-A. Building official; compensation; deputy**

9 In every town and city of more than 2,000 inhabitants, and in every town of 2,000
10 inhabitants or less, if such a town so votes at a town meeting, and in each village
11 corporation, if such a corporation so votes at the annual meeting of the corporation, the
12 municipal officers shall annually in the month of April appoint a building official and
13 shall determine the building official's compensation. ~~If a building official is appointed by~~
14 ~~a municipality that has adopted or is enforcing the Maine Uniform Building and Energy~~
15 ~~Code or a portion of the Maine Uniform Building and Energy Code pursuant to Title 10,~~
16 ~~section 9724, that building official must be certified in building standards pursuant to~~
17 ~~Title 30-A, section 4451, subsection 2-A, paragraph E.~~ Whenever the building official
18 becomes incapacitated, the municipal officers may appoint or authorize the building
19 official to appoint a deputy building official, who shall serve until removed by the
20 municipal officers, but in no event beyond the term for which the building official was
21 appointed. The deputy building official shall perform such duties as may be required of
22 the deputy building official by the building official. The compensation of the deputy
23 building official is determined by the municipal officers.

24 **Sec. 5. 25 MRSA §2353-A**, as amended by PL 2011, c. 582, §4, is further
25 amended to read:

26 **§2353-A. Duty to inspect buildings under construction**

27 The building official shall inspect each building during the process of construction so
28 far as may be necessary to see that all proper safeguards against the catching or spreading
29 of fire are used, that the chimneys and flues are made safe and that proper cutoffs are
30 placed between the timbers in the walls and floorings where fire would be likely to
31 spread, and may give such directions in writing to the owner or contractor as the building
32 official considers necessary concerning the construction of the building so as to render
33 the building safe from the catching and spreading of fire. ~~For a building official in a~~
34 ~~municipality that is enforcing the Maine Uniform Building and Energy Code pursuant to~~
35 ~~Title 10, section 9724, unless the municipality is enforcing that code by means of~~
36 ~~3rd party inspectors pursuant to section 2373, subsection 4, the building official shall~~
37 ~~inspect each building during the process of construction for compliance with the Maine~~
38 ~~Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.~~

1 **Sec. 6. 25 MRSA §2356**, as amended by PL 2011, c. 582, §5, is further amended
2 to read:

3 **§2356. Appeals**

4 ~~Unless an alternative appeal process has been established by ordinance pursuant to~~
5 ~~Title 10, section 9724, subsection 5, an~~ An appeal in writing may be taken from any order
6 or direction of the building official to the municipal officers, whose order thereon is final.

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

9 **§2357-A. No occupancy without certificate; appeal**

10 A building in a municipality of more than 2,000 inhabitants may not be occupied
11 until the building official has given a certificate of occupancy for compliance with the
12 inspections required by section 2353-A. ~~A building in a municipality of more than 2,000~~
13 ~~inhabitants that has adopted or is enforcing the Maine Uniform Building and Energy~~
14 ~~Code pursuant to Title 10, section 9724 may not be occupied until the building official~~
15 ~~has given a certificate of occupancy for compliance with the Maine Uniform Building~~
16 ~~and Energy Code adopted pursuant to Title 10, chapter 1103, and in accordance with the~~
17 ~~required enforcement and inspection options provided in section 2373. The building~~
18 ~~official may issue the certificate of occupancy upon receipt of an inspection report by a~~
19 ~~certified 3rd party inspector pursuant to section 2373, subsection 4. The municipality has~~
20 no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing
21 the certificate of occupancy. If the owner permits it to be so occupied without such
22 certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In
23 case the building official for any cause declines to give that certificate and the builder has
24 in the builder's own judgment complied with section 2353-A, an appeal may be taken
25 pursuant to Title 30-A, section 4103, subsection 5 ~~or through an alternative appeal~~
26 ~~process that has been established by ordinance pursuant to Title 10, section 9724,~~
27 ~~subsection 5.~~ If on such appeal it is decided that section 2353-A has been complied with,
28 the owner of the building is not liable to a fine for want of the certificate of the building
29 official.

30 **Sec. 8. 25 MRSA §2361**, as amended by PL 2011, c. 365, §8, is further amended
31 to read:

32 **§2361. Proceedings by municipality**

33 **1-A. Municipal enforcement.** ~~Effective December 1, 2010, duly~~ Duly appointed
34 fire chiefs or their designees, municipal building officials and code enforcement officers,
35 when authorized by their respective municipal employer, may bring a civil action in the
36 name of the municipality to enforce any of the state laws, duly adopted state rules or local
37 ordinances enacted pursuant to this Part ~~and Title 10, chapter 1103;~~ and

38 **2. Notice.** In any proceeding brought by or against the State that involves the
39 validity of a municipal ordinance, the municipality must be given notice of the
40 proceeding and is entitled to be made a party to the proceeding and to be heard. In any

1 proceeding brought by or against the municipality that involves the validity of statute,
2 ordinance or regulation, the Attorney General must be served and made a party to the
3 proceeding and is entitled to be heard. This section applies to enforcement of statutes,
4 rules or ordinances enacted pursuant to this Part ~~and Title 10, chapter 1103.~~

5 **Sec. 9. 25 MRSA c. 314**, as amended, is repealed.

6 **Sec. 10. 25 MRSA §2448-A, sub-§2, ¶H**, as enacted by PL 2009, c. 364, §2, is
7 repealed.

8 **Sec. 11. 25 MRSA §2450, first ¶**, as amended by PL 2009, c. 364, §3, is further
9 amended to read:

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

25 **Sec. 12. 25 MRSA §2450-A**, as repealed and replaced by PL 2013, c. 424, Pt. A,
26 §13, is repealed.

27 **Sec. 13. 30-A MRSA §4215, sub-§4**, as amended by PL 2011, c. 655, Pt. FF, §5
28 and affected by §16, is further amended to read:

29 **4. Fees.** The plumbing inspector shall issue any permit under this section upon
30 receipt and approval of a completed application form as prescribed by the commissioner
31 and payment by the applicant of the fee established by the municipality. The fee must be
32 at least the minimum amount determined by rule of the department. One-quarter of the
33 amount of the minimum fee must be paid through the department to the Treasurer of State
34 to be maintained as a permanent fund and used by the department to implement its
35 subsurface wastewater disposal rules, to administer the receipt and collation of completed
36 permits and to issue plumbing permit labels to the municipality and by the Department of
37 Economic and Community Development, Office of Community Development for training
38 and certification of local plumbing inspectors. ~~The department and the Department of~~
39 ~~Economic and Community Development, Office of Community Development shall~~
40 ~~together determine an amount to be transferred annually by the Treasurer of State for~~
41 ~~training and certification of local plumbing inspectors to the Maine Code Enforcement~~

1 ~~Training and Certification Fund established in section 4451, subsection 3-B. The~~
2 ~~remainder of the fee must be paid to the treasurer of the municipality.~~

3 **Sec. 14. 30-A MRSA §4451, sub-§1, ¶D**, as amended by PL 2011, c. 655, Pt.
4 FF, §8 and affected by §16, is further amended to read:

5 D. An individual whose certification has expired or is about to expire may be
6 temporarily authorized in writing by the Department of Economic and Community
7 Development, Office of Community Development to extend that individual's
8 certification for a period not to exceed 12 months ~~in cases where the necessary~~
9 ~~training or examination is suspended under subsection 3-B, paragraph E.~~

10 **Sec. 15. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2011, c. 613,
11 §27 and affected by §29, is further amended to read:

12 E. Building standards under chapter 141; chapter 185, subchapter 1; and Title 5,
13 sections 4582-B, 4582-C and 4594-F; ~~beginning June 1, 2010, Title 10, chapter 1103;~~
14 ~~and Title 25, chapter 313.~~

15 **Sec. 16. 30-A MRSA §4451, sub-§§3-A and 3-B**, as amended by PL 2011, c.
16 655, Pt. FF, §8 and affected by §16, are repealed.

17 **Sec. 17. 30-A MRSA §4452, sub-§5, ¶¶H and I**, as repealed by PL 2007, c.
18 699, §18, are reenacted to read:

19 H. Local building codes adopted pursuant to sections 3001 and 3007;

20 I. Local housing codes adopted pursuant to sections 3001 and 3007;

21 **Sec. 18. 30-A MRSA §4452, sub-§5, ¶T**, as corrected by RR 2007, c. 2, §16, is
22 amended to read:

23 T. Laws pertaining to limitations on construction and excavation near burial sites and
24 established cemeteries in Title 13, section 1371-A and local ordinances and
25 regulations adopted by municipalities in accordance with this section and section
26 3001 regarding those limitations; and

27 **Sec. 19. 30-A MRSA §4452, sub-§5, ¶U**, as corrected by RR 2007, c. 2, §17, is
28 amended to read:

29 U. Standards under a wind energy development certification issued by the
30 Department of Environmental Protection pursuant to Title 35-A, section 3456 if the
31 municipality chooses to enforce those standards; ~~and~~

32 **Sec. 20. 30-A MRSA §4452, sub-§5, ¶V**, as reallocated by RR 2007, c. 2, §18,
33 is repealed.

34 **Sec. 21. 35-A MRSA §10104, sub-§9**, as amended by PL 2011, c. 627, §5, is
35 further amended to read:

36 **9. Coordination with other entities.** Consistent with the requirements of this
37 chapter and other applicable laws, the board shall coordinate with the activities and

1 programs of state agencies and authorities that relate to the purposes of this chapter in
2 order to align such activities and programs with the plans and programs of the trust. For
3 purposes of this subsection, activities and programs of state agencies and authorities that
4 relate to the purposes of this chapter include but are not limited to energy efficiency
5 programs relating to state facilities administered by the Department of Administrative and
6 Financial Services, Bureau of General Services, ~~the adoption, amendment and~~
7 ~~maintenance of the Maine Uniform Building and Energy Code by the Technical Building~~
8 ~~Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A~~
9 ~~within the Department of Public Safety,~~ energy efficiency or green energy workforce
10 development activities of the Department of Labor or the State Workforce Investment
11 Board and energy efficiency and weatherization programs administered by the Maine
12 State Housing Authority.

13 **Sec. 22. PL 2007, c. 699, §27,** as amended by PL 2009, c. 261, Pt. A, §17, is
14 repealed.

15 **SUMMARY**

16 This bill repeals the laws establishing the Maine Uniform Building and Energy Code
17 and makes adjustments to certain other laws to make them consistent with law that
18 existed prior to the enactment of Public Law 2007, chapter 699, which created the
19 uniform code. This bill does not reenact the Maine Model Building Code or the energy
20 efficiency building standards that were repealed by Public Law 2007, chapter 699 and
21 replaced by the Maine Uniform Building and Energy Code.