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Legislative Document

No. 1675

S.P. 549

In Senate, May 2, 2019

An Act Regarding Building Codes

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BELLOWS of Kennebec.

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

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

4 **1. Limitations on home rule authority.** This chapter provides express limitations
5 on municipal home rule authority. The Maine Uniform Building and Energy Code must
6 be enforced in a municipality that has more than 4,000 residents and that has adopted any
7 building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building
8 and Energy Code must be enforced in a municipality that has more than 4,000 residents
9 and that has not adopted any building code by August 1, 2008. Beginning July 1, 2020,
10 the Maine Uniform Building and Energy Code must be enforced in all municipalities.
11 The Maine Uniform Building and Energy Code must be enforced through inspections that
12 comply with Title 25, section 2373.

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14 repealed.

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16 repealed.

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

19 **5. Exception.** This section does not prohibit the adoption or enforcement of an
20 ordinance of any political subdivision that sets forth provisions for local enforcement of
21 building codes. If such an ordinance does not provide for a process to appeal decisions
22 made by building officials administering and enforcing ~~the Maine Uniform Building~~
23 ~~Code, the Maine Uniform Energy Code~~ or the Maine Uniform Building and Energy
24 Code, an appeal may be taken in the same manner as provided under Title 30-A, section
25 4103, subsection 5. This section does not prohibit the adoption or enforcement of an
26 ordinance of any political subdivision that sets forth the swimming pool fencing
27 standards, without amendment, contained in Appendix G of the 2nd edition of the 2009
28 International Residential Code.

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

- 31 (1) Log homes or manufactured housing as defined in chapter 951;
- 32 (2) Post and beam or timber frame construction; ~~or~~
- 33 (3) Warehouses or silos used to store harvested crops; or
- 34 (4) Houses constructed and occupied prior to January 1, 2007 or any
35 modification of or addition to houses constructed and occupied prior to January
36 1, 2007 other than a complete demolition and rebuilding of the house.
37 Notwithstanding any other provision of law to the contrary, a municipality may
38 not require architectural plans to be filed with the municipality for any
39 construction covered by this subparagraph.

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

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

6 **Sec. 6. 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~~ No later than July 1, 2020, the building official must be certified in
17 building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E.
18 Whenever the building official becomes incapacitated, the municipal officers may
19 appoint or authorize the building official to appoint a deputy building official, who shall
20 serve until removed by the municipal officers, but in no event beyond the term for which
21 the building official was appointed. The deputy building official shall perform such
22 duties as may be required of the deputy building official by the building official. The
23 compensation of the deputy building official is determined by the municipal officers.

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

26 **§2357-A. No occupancy without certificate; appeal**

27 A building in a municipality of more than 2,000 inhabitants may not be occupied
28 until the building official has given a certificate of occupancy for compliance with the
29 inspections required by section 2353-A. A In accordance with the application provisions
30 of Title 10, section 9724, a building in a municipality of more than 2,000 inhabitants that
31 ~~has adopted or is enforcing the Maine Uniform Building and Energy Code pursuant to~~
32 ~~Title 10, section 9724~~ may not be occupied until the building official has given a
33 certificate of occupancy for compliance with the Maine Uniform Building and Energy
34 Code adopted pursuant to Title 10, chapter 1103, and in accordance with the required
35 enforcement and inspection options provided in section 2373. The building official may
36 issue the certificate of occupancy upon receipt of an inspection report by a certified
37 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no
38 obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the
39 certificate of occupancy. If the owner permits it to be so occupied without such
40 certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In
41 case the building official for any cause declines to give that certificate and the builder has
42 in the builder's own judgment complied with section 2353-A, an appeal may be taken

1 pursuant to Title 30-A, section 4103, subsection 5 or through an alternative appeal
2 process that has been established by ordinance pursuant to Title 10, section 9724,
3 subsection 5. If on such appeal it is decided that section 2353-A has been complied with,
4 the owner of the building is not liable to a fine for want of the certificate of the building
5 official.

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

8 **§2373. Municipal inspection options**

9 The code must be enforced in a municipality ~~that has more than 4,000 residents and~~
10 ~~that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code~~
11 ~~must be enforced in a municipality that has more than 4,000 residents and that has not~~
12 ~~adopted any building code by August 1, 2008 in accordance with Title 10, section 9724.~~
13 The code must be enforced through inspections that comply with the code through any of
14 the following means:

15 **1. Building officials.** Building officials and local code enforcement officers;

16 **2. Interlocal agreements.** Interlocal agreements with other municipalities that share
17 the use of building officials certified in building standards pursuant to Title 10, section
18 9723;

19 **3. Contractual agreements.** Contractual agreements with county or regional
20 authorities that share the use of building officials certified in building standards pursuant
21 to Title 10, section 9723; and

22 **4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to
23 Title 10, section 9723 submitted to the building official prior to obtaining a certificate of
24 occupancy in section 2357-A that are obtained pursuant to independent contractual
25 arrangements between the ~~building owner and 3rd-party inspector or the municipality and~~
26 ~~3rd-party inspector. A municipality that relies on 3rd-party inspectors must contract with~~
27 one or more 3rd-party inspectors selected through a competitive bidding process.
28 Nothing in this subsection prohibits 3rd-party inspectors from jointly bidding on any
29 competitive solicitation by a municipality.

30 **SUMMARY**

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

32 1. It provides that beginning July 1, 2020, the Maine Uniform Building and Energy
33 Code must be enforced in all municipalities regardless of population.

34 2. It exempts a house constructed and occupied prior to January 1, 2007 or any
35 modification of or addition to a house constructed and occupied prior to January 1, 2007
36 other than a complete demolition and rebuilding of the house from the requirements of
37 the Maine Uniform Building and Energy Code. A municipality is prohibited from
38 requiring architectural plans to be filed for such a modification or addition.

1 3. It removes the option for municipalities to use 3rd-party inspectors contracted and
2 paid for by building owners and requires municipalities that use 3rd-party inspectors to
3 contract directly with these inspectors and to select them through a competitive bidding
4 process. It allows 3rd-party inspectors to jointly bid on a competitive solicitation by a
5 municipality.