

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 H.P. 629 - L.D. 855
An Act To Strengthen the Maine Uniform Building and Energy Code**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 10 MRSA §9723, sub-§2, as repealed and replaced by PL 2013, c. 424, Pt. A, §3, is amended to read:

2. Training program standards; implementation. The committee shall direct the training coordinator of the Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

Sec. 2. 25 MRSA §2372, sub-§2, as amended by PL 2011, c. 633, §9, is further amended to read:

2. Staff. The commissioner may appoint ~~or~~ and may remove for cause staff of the division, including:

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

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

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

B. An office specialist to provide administrative support to the division and the board.

Sec. 3. 25 MRSA §2374, as repealed and replaced by PL 2013, c. 424, Pt. A, §12, is amended to read:

§2374. Uniform Building Codes and Standards Fund

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

Sec. 4. 30-A MRSA §4221, sub-§1, as amended by PL 2011, c. 655, Pt. FF, §6 and affected by §16, is further amended to read:

1. Appointment; compensation; removal. In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors are appointed for a term of one year or more and must be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and ~~the Department of Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors is determined by the municipal officers and paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

Sec. 5. 30-A MRSA §4451, as amended by PL 2019, c. 40, §1, is further amended to read:

§4451. Training and certification for code enforcement officers

1. Certification required; exceptions. A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal, except that:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section;

B. Whether or not any extension is available under paragraph A, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual;

C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and

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

2. Penalty. Any municipality that violates this section commits a civil violation for which a ~~forfeiture~~ fine of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

2-A. Code enforcement officer; definition and duties. As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

A. Shoreland zoning under Title 38, chapter 3, subchapter 1, article 2-B;

B. Comprehensive planning and land use under Part 2, Subpart 6-A;

C. Internal plumbing under chapter 185, subchapter 3;

D. Subsurface wastewater disposal under chapter 185, subchapter 3; and

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

3. Training and certification of code enforcement officers. In cooperation with code enforcement officer professional associations, the Maine Community College System, the Department of Environmental Protection, and the Department of Health and Human Services ~~and the Department of Public Safety~~, except as otherwise provided in

paragraph H, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall establish a continuing education program for individuals engaged in code enforcement. This program must provide training in the technical and legal aspects of code enforcement necessary for certification. The training program must include training to provide familiarity with the laws and ordinances related to the structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures and enforcement techniques.

H. If funding is not available to support the training and certification program authorized under this subsection, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall discontinue training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter 375, subchapter 2-A a program to register code enforcement officers that meet training and education qualifications. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall publish the list of persons registered for code enforcement who have submitted evidence of required qualifications. Persons registered under this paragraph must meet the requirements for training and certification under this subchapter. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall consult with the Department of Health and Human Services for the purposes of carrying out training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs C and D. Within one month of discontinuation of training and certification under this paragraph, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters a recommendation for funding the training and certification program or for further changes in program requirements.

3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.

3-B. Maine Code Enforcement Training and Certification Fund. The Maine Code Enforcement Training and Certification Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support training and certification programs administered by the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal for code

enforcement officers, local plumbing inspectors, municipal building officials and 3rd-party inspectors in accordance with this subchapter.

A. ~~Beginning July 1, 2009, and each year thereafter on~~ On July 1st of each year, the funds identified in section 4215, subsection 4 for training and certifying local plumbing inspectors must be transferred to the fund.

B. ~~Beginning July 1, 2009, and each year thereafter on~~ On July 1st of each year, the funds identified in Title 25, section 2374 for training and certifying municipal building officials, local code enforcement officers and 3rd-party inspectors must be transferred to the fund.

C. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall place in the fund any money it receives from grants to support the requirements of this subchapter.

D. Funds related to code enforcement training and certification may be expended only in accordance with allocations approved by the Legislature and solely for the administration of this subchapter. Any balance remaining in the fund at the end of any fiscal year may not lapse but must be carried forward to the next fiscal year.

E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal may suspend all or reduce the level of training and certification activities.

4. Examination. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal may conduct additional examinations to carry out the purposes of this subchapter.

5. Certification standards. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to establish the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2-A, in addition to general standards that apply to all code enforcement officers.

6. Certification; terms; revocation. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to

act as code enforcement officers. Certificates issued by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6-year certification period.

A. The District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or
- (3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

7. Other professions unaffected. This subchapter may not be construed to affect or prevent the practice of any other profession.

Sec. 6. 30-A MRSA §4452, sub-§7, as amended by PL 2011, c. 655, Pt. FF, §9 and affected by §16, is further amended to read:

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

Sec. 7. 30-A MRSA §4453, first ¶, as amended by PL 2011, c. 655, Pt. FF, §10 and affected by §16, is further amended to read:

The Department of ~~Economic and Community Development, Office of Community Development~~ Public Safety, Office of the State Fire Marshal shall establish certification standards and a program to certify familiarity with court procedures for the following individuals:

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF
Community Development Block Grant Program 0587**

Initiative: Deallocates funds due to the responsibility for the training and certification of code enforcement officers being transferred to the Department of Public Safety.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	(\$30,000)	(\$30,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$30,000)</u>	<u>(\$30,000)</u>