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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1101, L.D. 1509, Bill, “An Act To Amend the Laws Governing the Maine Uniform Building and Energy Code To Ensure It Is Consistent with Current Standards and Applies to Small Municipalities”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 10 MRSA §9721, sub-§§3 and 4, as corrected by RR 2011, c. 1, §9, are amended to read:

3. Maine Uniform Building Code. "Maine Uniform Building Code" means that portion of the Maine Uniform Building and Energy Code that does not contain energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph ~~M~~ B.

4. Maine Uniform Energy Code. "Maine Uniform Energy Code" means that portion of the Maine Uniform Building and Energy Code that contains only energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph ~~M~~ B.

Sec. 2. 10 MRSA §9722, sub-§2, as amended by PL 2011, c. 655, Pt. MM, §10 and affected by §26, is further amended to read:

2. Membership. The board consists of ~~11 voting~~ 12 members, including the Director of the Efficiency Maine Trust, who serves ex officio and may not vote, and the following 11 individuals, who are voting members appointed by the Governor:

- A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;
- B. A municipal code enforcement officer employed by a municipality that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization;

COMMITTEE AMENDMENT

- 1 C. A municipal code enforcement officer employed by a service center community
2 under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition
3 or its successor organization;
- 4 D. A residential builder recommended by a statewide or regional association of
5 home builders and remodelers;
- 6 E. A commercial builder recommended by a statewide association of general
7 contractors;
- 8 F. An architect licensed in the State who is accredited by a nationally recognized
9 organization that administers credentialing programs related to environmentally
10 sound building practices and standards, recommended by a statewide chapter of a
11 national institute of architects;
- 12 G. A structural engineer licensed in the State, recommended by a statewide
13 association of structural engineers;
- 14 H. A historic preservation representative, recommended by the Maine Historic
15 Preservation Commission, with experience implementing the standards for the
16 treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68
17 (2007), who is:
- 18 (1) An architect licensed in the State;
- 19 (2) A structural engineer licensed in the State; or
- 20 (3) A builder;
- 21 I. An energy efficiency representative, recommended by the Director of the
22 Governor's Energy Office within the Executive Department, who has experience or
23 expertise in the design or implementation of energy codes or in the application of
24 energy efficiency measures in residential or commercial construction;
- 25 J. A mechanical engineer licensed in the State, recommended by a statewide
26 association of mechanical engineers; and
- 27 K. A lumber material dealer or supplier, recommended by a statewide association of
28 lumber dealers in the State.

29 A member appointed under this subsection must have at least 5 years' experience in the
30 field that member is nominated to represent and must be employed in that field.

31 **Sec. 3. 10 MRSA §9722, sub-§4**, as enacted by PL 2007, c. 699, §6, is amended
32 to read:

33 **4. Terms; removal.** ~~Appointments to Appointed members of the board are made for~~
34 ~~a appointed for 4-year term, terms and members are eligible for reappointment.~~ If there is
35 a vacancy for any cause among the appointed members, the Governor shall make an
36 appointment immediately effective for the unexpired term. ~~A An appointed~~ member of
37 the board may be removed from the board for cause by the Governor.

38 **Sec. 4. 10 MRSA §9722, sub-§6**, as amended by PL 2015, c. 126, §§1 to 3, is
39 further amended to read:

1 **6. Duties and powers.** In addition to other duties set forth in this chapter, the board
2 shall:

3 A. Adopt rules in accordance with the Maine Administrative Procedure Act
4 necessary to carry out its duties under this chapter. Rules adopted pursuant to this
5 chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

6 B. Adopt, amend and maintain the Maine Uniform Building and Energy Code; The
7 board shall ensure that the Maine Uniform Building and Energy Code consists of the
8 following codes and standards:

9 (1) International Building Code published by the International Code Council;

10 (2) International Existing Building Code published by the International Code
11 Council;

12 (3) International Residential Code published by the International Code Council;

13 (4) International Energy Conservation Code published by the International Code
14 Council;

15 (5) International Mechanical Code published by the International Code Council;

16 (6) ASHRAE Standard 62.1 Ventilation for Acceptable Indoor Air Quality;

17 (7) ASHRAE Standard 62.2 Ventilation and Acceptable Indoor Air Quality in
18 Low-Rise Residential Buildings;

19 (8) ASHRAE Standard 90.1 Energy Standard for Buildings Except Low-Rise
20 Residential Buildings; and

21 (9) Standard Practice for Radon Control Options for the Design and Construction
22 of New Low-Rise Residential Buildings published by the American Society for
23 Testing and Materials.

24 For purposes of this paragraph, ASHRAE has the same meaning as in section 1413,
25 subsection 1.

26 Codes and standards adopted under this paragraph are mandatory, except as provided
27 in paragraph B-1. The board shall ensure that each new edition of a code or standard
28 adopted under this paragraph is reviewed by the board, and that each code or standard
29 adopted under paragraph B is either the most recent edition or the edition previous to
30 the most recent edition of that code or standard;

31 B-1. Ensure the following in adopting and amending the Maine Uniform Building
32 and Energy Code:

33 (1) That historic preservation is a policy priority by ensuring that:

34 (a) Provisions of model codes and standards intended to facilitate the
35 continued use or adaptive reuse of historic buildings are maintained in the
36 adopted versions of the Maine Uniform Building and Energy Code; and

1 (b) The board proactively identifies additional or alternative compliance
2 means and methods for historic buildings in the adoption and amendment of
3 the Maine Uniform Building and Energy Code;

4 (2) That nontraditional or experimental construction, including but not limited to
5 straw bale, mass timber and earth berm construction, is permissible under the
6 Maine Uniform Building and Energy Code;

7 (3) That building materials from local sawmills, including but not limited to
8 nongraded lumber, are permissible under the Maine Uniform Building and
9 Energy Code; and

10 (4) That buildings used to house livestock or harvested crops are not subject to
11 the Maine Uniform Building and Energy Code;

12 C. Adopt rules for the review and adoption of amendments to the Maine Uniform
13 Building and Energy Code, including:

14 (1) A process for consideration of amendment proposals submitted by
15 municipalities, county, regional or state governmental units, professional trade
16 organizations and the public;

17 (2) A requirement that amendments that are more restrictive than the national
18 minimum standard be accompanied by an economic impact statement that
19 includes:

20 (a) An identification of the types and an estimate of the number of the small
21 businesses subject to the proposed amendment;

22 (b) The projected reporting, record-keeping and other administrative costs
23 required for compliance with the proposed amendment, including the type of
24 professional skills necessary for preparation of the report or record;

25 (c) A brief statement of the probable impact on affected small businesses;
26 and

27 (d) A description of any less intrusive or less costly, reasonable alternative
28 methods of achieving the purposes of the proposed amendment;

29 (3) A process for reviewing and evaluating criteria to identify whether an
30 amendment is needed to:

31 (a) Address a critical life or safety need, a specific state policy or statute or a
32 unique character of the State;

33 (b) Ensure consistency with state rules or federal regulations; or

34 (c) Correct errors and omissions;

35 (4) Timelines governing the filing of amendments and a process to establish an
36 annual adoption cycle; and

37 (5) A process for publication of adopted amendments within 30 days of adoption;

1 D. Identify and resolve conflicts between the Maine Uniform Building and Energy
2 Code and the fire safety codes and standards adopted pursuant to Title 25, section
3 2452. The board shall develop rules designed to resolve these conflicts, which must
4 include:

5 (1) Notification to the authority or authorities having jurisdiction over the code
6 or standard that is in conflict with the Maine Uniform Building and Energy Code
7 and a request for submission of proposed solutions for such conflicts;

8 (2) Procedures for consideration of proposed solutions submitted by the
9 authority or authorities having jurisdiction over the code or standard that is in
10 conflict with the Maine Uniform Building and Energy Code and consideration of
11 new approaches to resolving the conflict; and

12 (3) Publication of resolution of the conflict within 30 days of adoption;

13 E. On January 31st of each calendar year beginning in 2011, report to the joint
14 standing committee of the Legislature having jurisdiction over business, research and
15 economic development matters any proposals for proposed conflict resolutions for
16 codes and standards referenced in section 9725, subsections 2 to 7; proposals to
17 improve the efficiency and effectiveness of those codes and standards; and alternative
18 methods of funding for the board to create an equitable source of revenue;

19 F. Develop technical advisory groups of experts and interest group representatives as
20 necessary to provide the board with detailed information and recommendations on
21 amendments to the Maine Uniform Building and Energy Code, national model codes
22 revisions and conflict resolution with other building-related codes and standards
23 adopted in the State. The board may direct the technical advisory groups to identify
24 economic impacts on small businesses, housing affordability, construction costs, life-
25 cycle costs or code enforcement costs of proposed changes to the code;

26 G. In accordance with section 9723, ensure that training and certification regarding
27 the Maine Uniform Building and Energy Code is readily available, affordable and
28 accessible to municipal building officials; and

29 ~~H. Make historic preservation a policy priority in the adoption and amendment of the~~
30 ~~Maine Uniform Building and Energy Code.~~

31 ~~(1) Provisions of model codes and standards intended to facilitate the continued~~
32 ~~use or adaptive reuse of historic buildings must be maintained in the adopted~~
33 ~~versions of the Maine Uniform Building and Energy Code.~~

34 ~~(2) The board shall proactively identify additional or alternative compliance~~
35 ~~means and methods for historic buildings in the adoption and amendment of the~~
36 ~~Maine Uniform Building and Energy Code;~~

37 I. Approve methods of energy performance rating for use in generating any
38 consumer information labels that may be required in the marketing and sale of
39 residential and commercial buildings or units within buildings;

40 ~~J. In the adoption and amendment of the Maine Uniform Building and Energy Code,~~
41 ~~ensure that nontraditional or experimental construction, including but not limited to~~
42 ~~straw bale and earth berm construction, is permissible under the code;~~

1 ~~K. In the adoption and amendment of the Maine Uniform Building and Energy Code,~~
2 ~~ensure that building materials from local sawmills, including but not limited to~~
3 ~~nongraded lumber, are permissible under the code;~~

4 ~~L. In the adoption and amendment of the Maine Uniform Building and Energy Code,~~
5 ~~adopt the standards for residential basement wall insulation under the 2006 edition of~~
6 ~~the International Energy Conservation Code published by the International Code~~
7 ~~Council;~~

8 ~~M. Adopt, amend and maintain the Maine Uniform Building Code and the Maine~~
9 ~~Uniform Energy Code; and~~

10 ~~N. In the adoption and amendment of the Maine Uniform Building and Energy Code,~~
11 ~~ensure that buildings used to house livestock or harvested crops are not subject to the~~
12 ~~code.~~

13 **Sec. 5. 10 MRSA §9724, sub-§1**, as amended by PL 2011, c. 408, §4, is further
14 amended to read:

15 **1. Limitations on home rule authority.** This chapter provides express limitations
16 on municipal home rule authority. The Maine Uniform Building and Energy Code must
17 be enforced in a municipality that has more than 4,000 residents ~~and that has adopted any~~
18 ~~building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building~~
19 ~~and Energy Code must be enforced in a municipality that has more than 4,000 residents~~
20 ~~and that has not adopted any building code by August 1, 2008. The Maine Uniform~~
21 ~~Building and Energy Code must be enforced through inspections that comply with Title~~
22 ~~25, section 2373.~~

23 **Sec. 6. 10 MRSA §9724, sub-§1-A**, as enacted by PL 2011, c. 408, §5, is
24 amended to read:

25 **1-A. Municipalities up to 4,000 residents.** A municipality of up to 4,000 residents
26 ~~is not required to enforce, but may not adopt or enforce a building code other than the~~
27 ~~Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform~~
28 ~~Building and Energy Code. Notwithstanding any other provision of this chapter or Title~~
29 ~~25, chapter 314, the provisions of the Maine Uniform Building Code, the Maine Uniform~~
30 ~~Energy Code or the Maine Uniform Building and Energy Code do not apply in a~~
31 ~~municipality that has 4,000 or fewer residents except to the extent the municipality has~~
32 ~~adopted that code pursuant to this subsection.~~

33 **Sec. 7. 25 MRSA §2373, first ¶**, as amended by PL 2011, c. 408, §6, is further
34 amended to read:

35 The code must be enforced in a municipality that has more than 4,000 residents ~~and~~
36 ~~that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code~~
37 ~~must be enforced in a municipality that has more than 4,000 residents and that has not~~
38 ~~adopted any building code by August 1, 2008. The code must be enforced through~~
39 ~~inspections that comply with the code through any of the following means:'~~

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
41 section number to read consecutively.

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SUMMARY

This amendment strikes and replaces the bill and makes the following changes:

1. Lists as mandatory the specific codes that must comprise the Maine Uniform Building and Energy Code;
2. Requires that each new version of a code or standard that is part of the Maine Uniform Building and Energy Code must be reviewed as it is published and that the Technical Building Codes and Standards Board must adopt either the most recent edition or the edition previous of each code or standard;
3. Makes the Maine Uniform Building and Energy Code applicable statewide but does not require municipalities under 4,000 residents to enforce the code; and
4. Provides that the Director of the Efficiency Maine Trust serves as a nonvoting member of the Technical Building Codes and Standards Board.

FISCAL NOTE REQUIRED

(See attached)