

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1619

S.P. 529

In Senate, December 20, 2011

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### **An Act To Resolve Conflicts in the Implementation of the Maine Uniform Building and Energy Code**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 16, 2011. Referred to the Committee on Labor, Commerce, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

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

2 **Sec. 1. 10 MRSA §9724, sub-§6** is enacted 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. 2. 25 MRSA §2351-A**, as enacted by PL 2009, c. 261, Pt. B, §2, is amended  
7 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, ~~who~~  
13 ~~must be a person certified in building standards pursuant to Title 30-A, section 4451,~~  
14 ~~subsection 2-A, paragraph E,~~ and shall determine the building official's compensation. If  
15 a building official is appointed by a municipality that has adopted or is enforcing the  
16 Maine Uniform Building and Energy Code or a portion of the Maine Uniform Building  
17 and Energy Code pursuant to Title 10, section 9724, that building official must be  
18 certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A,  
19 paragraph E. Whenever the building official becomes incapacitated, the municipal  
20 officers may appoint or authorize the building official to appoint a deputy building  
21 official, who shall serve until removed by the municipal officers, but in no event beyond  
22 the term for which the building official was appointed. The deputy building official shall  
23 perform such duties as may be required of the deputy building official by the building  
24 official. The compensation of the deputy building official is determined by the municipal  
25 officers.

26 ~~This section takes effect December 1, 2010.~~

27 **Sec. 3. 25 MRSA §2353-A**, as enacted by PL 2009, c. 261, Pt. B, §4, is amended  
28 to read:

29 **§2353-A. Duty to inspect buildings under construction**

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

1 to Title 10, section 9724, unless the municipality is enforcing that code by means of  
2 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall  
3 inspect each building during the process of construction for compliance with the Maine  
4 Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

5 ~~This section takes effect December 1, 2010.~~

6 **Sec. 4. 25 MRSA §2357-A**, as amended by PL 2011, c. 94, §1 and c. 365, §7, is  
7 further amended to read:

8 **§2357-A. No occupancy without certificate; appeal**

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

27 ~~This section takes effect December 1, 2010.~~

28 **SUMMARY**

29 This bill limits the scope and effect of the Maine Uniform Building and Energy Code  
30 to those municipalities that have adopted or are enforcing the Maine Uniform Building  
31 and Energy Code or a portion of the Maine Uniform Building and Energy Code. Under  
32 this bill, the requirement that a building official be certified in the enforcement of the  
33 Maine Uniform Building and Energy Code, and the inspection of buildings and issuance  
34 of occupancy permits only upon compliance with the Maine Uniform Building and  
35 Energy Code, applies only in those municipalities that have adopted or are enforcing the  
36 Maine Uniform Building and Energy Code or a portion of the Maine Uniform Building  
37 and Energy Code. This bill also specifies that a municipality that adopts the Maine  
38 Uniform Building and Energy Code or a portion of the Maine Uniform Building and  
39 Energy Code may do so by reference, as is allowed for other codes.