

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1509

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H.P. 1101

House of Representatives, April 4, 2019

**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**

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Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative RYKERSON of Kittery.  
Cosponsored by Senator CHIPMAN of Cumberland and  
Representatives: CAIAZZO of Scarborough, CUDDY of Winterport, FECTION of Biddeford,  
HARNETT of Gardiner, INGWERSEN of Arundel, KESSLER of South Portland.

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

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

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

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

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

14 **2. Membership.** The board consists of ~~44~~ 12 voting members, including the  
15 Director of the Efficiency Maine Trust, who serves ex officio, and the following 11  
16 individuals, who are appointed by the Governor:

17 A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine  
18 Fire Chiefs' Association or its successor organization;

19 B. A municipal code enforcement officer employed by a municipality that is not a  
20 service center community under Title 30-A, chapter 187, recommended by the Maine  
21 Municipal Association or its successor organization;

22 C. A municipal code enforcement officer employed by a service center community  
23 under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition  
24 or its successor organization;

25 D. A residential builder recommended by a statewide or regional association of  
26 home builders and remodelers;

27 E. A commercial builder recommended by a statewide association of general  
28 contractors;

29 F. An architect licensed in the State who is accredited by a nationally recognized  
30 organization that administers credentialing programs related to environmentally  
31 sound building practices and standards, recommended by a statewide chapter of a  
32 national institute of architects;

33 G. A structural engineer licensed in the State, recommended by a statewide  
34 association of structural engineers;

35 H. A historic preservation representative, recommended by the Maine Historic  
36 Preservation Commission, with experience implementing the standards for the  
37 treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68  
38 (2007), who is:

39 (1) An architect licensed in the State;

- 1 (2) A structural engineer licensed in the State; or  
2 (3) A builder;
- 3 I. An energy efficiency representative, recommended by the Director of the  
4 Governor's Energy Office within the Executive Department, who has experience or  
5 expertise in the design or implementation of energy codes or in the application of  
6 energy efficiency measures in residential or commercial construction;
- 7 J. A mechanical engineer licensed in the State, recommended by a statewide  
8 association of mechanical engineers; and
- 9 K. A lumber material dealer or supplier, recommended by a statewide association of  
10 lumber dealers in the State.

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

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

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

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

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

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

27 B. Adopt, amend and maintain the Maine Uniform Building and Energy Code; The  
28 board shall ensure that the Maine Uniform Building and Energy Code is consistent  
29 with the standards established under the most recently published edition of the  
30 International Energy Conservation Code published by the International Code Council  
31 and with the standards established under the most recently published edition of the  
32 International Mechanical Code published by the International Code Council. To the  
33 extent consistent with the most recently published edition of the International Energy  
34 Conservation Code and the International Mechanical Code, the board shall ensure the  
35 following in adopting and amending the Maine Uniform Building and Energy Code:

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

37 (a) Provisions of model codes and standards intended to facilitate the  
38 continued use or adaptive reuse of historic buildings are maintained in the  
39 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 and earth berm construction, is permissible under the Maine Uniform  
6                   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;

38                  D. Identify and resolve conflicts between the Maine Uniform Building and Energy  
39                  Code and the fire safety codes and standards adopted pursuant to Title 25, section

1 2452. The board shall develop rules designed to resolve these conflicts, which must  
2 include:

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

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

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

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

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

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

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

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

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

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

38 ~~J. In the adoption and amendment of the Maine Uniform Building and Energy Code,~~  
39 ~~ensure that nontraditional or experimental construction, including but not limited to~~  
40 ~~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. A municipality may not~~  
21 ~~adopt or enforce a building or energy code other than the Maine Uniform Building and~~  
22 ~~Energy Code. A municipality that has adopted any building or energy code by July 1,~~  
23 ~~2020 must adopt and enforce the Maine Uniform Building and Energy Code. The Maine~~  
24 ~~Uniform Building and Energy Code must be enforced through inspections that comply~~  
25 ~~with Title 25, section 2373.~~

26 **Sec. 6. 10 MRSA §9724, sub-§1-A**, as enacted by PL 2011, c. 408, §5, is  
27 repealed.

28 **Sec. 7. 10 MRSA §9724, sub-§1-B**, as enacted by PL 2011, c. 505, §1, is  
29 repealed.

30 **Sec. 8. 25 MRSA §2373, first ¶**, as amended by PL 2011, c. 408, §6, is further  
31 amended to read:

32 ~~The code must be enforced in a municipality that has more than 4,000 residents and~~  
33 ~~that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code~~  
34 ~~must be enforced in a municipality that has more than 4,000 residents and that has not~~  
35 ~~adopted any building code by August 1, 2008. A municipality may not adopt or enforce a~~  
36 ~~building or energy code other than the Maine Uniform Building and Energy Code. A~~  
37 ~~municipality that has adopted any building or energy code by July 1, 2020 must adopt and~~  
38 ~~enforce the Maine Uniform Building and Energy Code. The code must be enforced~~  
39 ~~through inspections that comply with the code through any of the following means:~~

