

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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the ground, and finds agreement, subject to such minor discrepancies as he has noted on the plan.

Sec. 3. 30 MRSA § 2002, sub-§§ 5 and 6 are amended to read:

5. **True line.** When the report has been accepted by the court, the line established by the commissioners becomes the true line for every municipal purpose, and the court shall order the interested municipalities to replace the temporary markers with ~~stone~~ monuments as provided in section ~~2001~~ 2001-A, subsection~~6~~ 7.

6. **Expense.** The expense of erecting ~~stone~~ monuments shall be borne equally by each municipality.

Effective September 14, 1979

CHAPTER 503

H. P. 522 — L. D. 666

AN ACT to Establish Energy Efficiency Building Performance Standards for the State of Maine.

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

Sec. 1. 5 MRSA § 5004, sub-§ 3, ¶¶ J, K, L and M are enacted to read:

J. Adopt energy conservation standards and promulgate rules and regulations for administration of such standards and the certification of energy efficient buildings as defined in Title 10, chapter 214;

K. Provide for the approval or denial of certificates of energy efficiency as required in Title 10, chapter 214;

L. Prepare a manual of accepted practices as described in Title 10, chapter 214; and

M. Provide for the review of plans and specifications and the inspection of buildings to determine compliance of the building with the energy conservation standards as described in Title 10, chapter 214.

Sec. 2. 10 MRSA c. 214 is enacted to read:

CHAPTER 214

ENERGY EFFICIENCY BUILDING PERFORMANCE STANDARDS

§ 1411. Title

This chapter shall be known as the "Energy Efficiency Building Performance Standards Act."

§ 1412. Legislative findings and purpose

The Legislature finds and declares that it is in the public interest to reduce the consumption of energy in buildings. The intent of this chapter is to reduce energy consumption by conservation.

§ 1413. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **ASHRAE 90.** "ASHRAE 90" means the standard for energy conservation in new building design developed and approved by the American Society of Heating, Refrigeration and Air Conditioning Engineers.

2. **BTU.** "BTU" means British Thermal Unit which is the amount of thermal energy required to raise one pound of water one degree Fahrenheit.

3. **Change of use.** "Change of use" means any alteration of the pattern of utilization of the building or change in purpose for which the building is used and which increases the total energy use of the building.

4. **Commission.** "Commission" means the Commission on Energy Efficiency Building Performance Standards.

5. **Conditioned floor area.** "Conditioned floor area" means the floor area within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.

6. **Conditioned space.** "Conditioned space" means space within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.

7. **Director.** "Director" means the Director of the Office of Energy Resources.

8. **Gross floor area.** "Gross floor area" means the total area of all floors within the conditioned space, including the floor area of heated basements, measured from exterior faces of exterior walls or the centerline of walls separating buildings. The floor areas of unconditioned spaces, such as unheated basements, garages and attics shall not be included in the gross floor area.

9. **Heat loss.** "Heat loss" means the amount of heat transferred annually

from the conditioned space to the outside or to an unconditioned space by means of conduction and infiltration as calculated by the method described in this chapter.

10. Infiltration. "Infiltration" means the uncontrolled movement of air into and out of the conditioned space through cracks and interstices in the building envelope.

11. Manual of Accepted Practices. "Manual of Accepted Practices" means the Manual of Accepted Practices prepared by the Office of Energy Resources in conformance with the State of Maine Energy Conservation Building Standards.

12. Nonresidential building. "Nonresidential building" means any building with a conditioned space which is not a residential building as defined herein.

13. Person. "Person" means any natural person, firm, partnership, association, corporation or governmental entity.

14. Public building. "Public building" means any building or portion thereof having a gross floor area of 5,000 square feet or more, excluding buildings owned or leased by the Federal Government, where access by the general public is allowed.

15. Renovation. "Renovation" means the reconstruction, removal or replacement of any portion or element of an existing building which affects the heat loss or gain of the building, illumination of the building or the heating, ventilating or air conditioning system of the building, but does not include normal maintenance and repair.

16. Residential building. "Residential building" means a structure designed and erected with between one and 10 dwelling units, which is not more than 3 stories in height and has no more than 7,000 square feet of gross floor area.

§ 1414. Advisory Council on Energy Efficiency Building Performance Standards

1. Establishment. There is created an Advisory Council on Energy Efficiency Building Performance Standards, hereinafter referred to as the advisory council. The advisory council shall consist of 10 persons. The Governor shall appoint one member who is a registered professional architect, one member who is a registered professional engineer, one member who is primarily a residential building contractor, one member who is primarily a nonresidential building contractor, one member who is a practicing building inspector, one member who represents the banking industry, one member who represents industry, one member who represents the commercial community and 2 members who are elected officials of a county or municipality. Public members shall serve for 4 years except as provided in this section and may be reappointed by the Governor for a succeeding term. Elected county and municipal officials shall be appointed to a term of office to coincide with their terms of office, not to exceed 4 years. Members shall not serve for more than 2 successive terms. The terms of

the initial public members shall be as follows: The banking representative and building contractor shall initially serve for 2 years and the registered professional engineer, the practicing building inspector and the registered professional architect shall initially serve for 3 years.

2. Powers and Duties. The advisory council shall approve all standards and regulations promulgated under this chapter prior to their adoption. The advisory council shall review all standards and regulations within 90 days from the date they are received by the council. The advisory council shall provide the reasons for the disapproval of any standard or regulation to the director in writing and any standard or regulation not disapproved within 90 days shall be deemed to be approved. The advisory council shall advise the director in his administration of this chapter and shall conduct an evaluation of these provisions at the end of 2 years following the effective date of this chapter. The advisory council shall report its findings and recommendations and any necessary legislation to the Governor and Legislature.

3. Meetings and compensation. The advisory council shall meet at least 4 times per year and each member shall be compensated for travel expenses incurred in executing the duties under this chapter.

§ 1415. Energy efficiency standards

1. Residential buildings. The director, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall adopt energy performance standards for residential buildings. The standards shall be consistent with the provisions of the State of Maine Energy Conservation Building Standards prepared by the commission and shall include envelope heat loss standards consistent with Chapter 4 of the ASHRAE 90 standards. Any residential building which is offered for sale or lease and is advertised or promoted as meeting the performance standards in this section or any other energy standard in conformance with this section shall meet these standards.

2. Nonresidential buildings. The director, in accordance with the Maine Administrative Procedure Act, Title 5, Chapter 375, shall adopt energy performance standards for nonresidential buildings. The standards shall be consistent with the provisions of the State of Maine Energy Conservation Building Standards prepared by the commission and shall contain envelope heat loss standards consistent with Chapter 4 of the ASHRAE 90 standards.

Any nonresidential building which is offered for sale or lease and is advertised or promoted as meeting the performance standards in this section or any other energy standard in conformance with this section shall meet these standards.

§ 1416. Procedure

1. Notice of intent. Prior to the construction, change of use or renovation of a building subject to this chapter, every person shall file a notice of intent and

filing fee as described in section 1417. Each person shall submit with this notice:

- A. A signed statement that the building has been designed to comply with the standards in this chapter;
- B. A statement that the builder or contractor intends to follow the Manual of Accepted Practices under section 1417; or
- C. Plans and specifications in sufficient detail for the director to determine that the building meets the standards under this chapter.

2. **Review of plans.** Within 60 days of receipt, the director shall review all plans and specifications submitted and determine whether they meet the standards under this chapter. The director may require the submission and review of plans and specifications from persons who have signed statements of compliance. Any person submitting plans shall be notified in writing within 60 days of the director's receipt of the plan.

3. **Inspections.** The owner of a building subject to this chapter shall notify the director according to the procedure established in section 1417 at least 14 days before the building is ready for inspection and shall certify that the building has been constructed according to the standards under this chapter. The director may provide for the inspection of any building subject to the provisions of this chapter.

A. For residential buildings, this inspection shall be within 3 working days from the date specified in the notice.

B. For nonresidential buildings, this inspection shall be within 5 working days from the date specified in the notice.

4. **Certificate of energy efficiency.** The director shall issue a certificate of energy efficiency to the owner of each building that has been inspected and determined to be in compliance with the standards under this chapter. For buildings that have not been inspected, the director shall issue a certificate of energy efficiency if a person has submitted a statement of compliance or the plans have been approved and the person certifies that the building has been constructed according to the standards under this chapter.

5. **Appeal of decision.** In the event that a certificate of energy efficiency is denied or is approved with terms objectionable to the applicant, the applicant, within 30 days' receipt of the director's decision, may file a notice of appeal with the director. Within 5 working days of receipt of the notice of appeal, the director shall schedule a public hearing to be held within 30 days and the applicant shall be notified in writing at least 7 days prior to the hearing.

§ 1417. Promulgation of rules

The director, in accordance with Title 5, chapter 375 and with the approval of

the advisory council as defined in section 1414, shall promulgate rules pertaining to the administration of this chapter. These rules and regulations shall include the following.

1. Energy building performance standards. The director shall adopt energy building performance standards that are consistent with the State of Maine Energy Conservation Building Standards prepared by the commission. These standards shall include:

- A. Lighting standards for all new and existing public buildings;
- B. Heating, ventilating and air conditioning equipment performance standards;
- C. Service water heating equipment performance standards; and
- D. Building envelope heat loss standards.

2. Energy standards within building codes. The director may approve the use of energy standards contained in any building code which are consistent with the standards adopted pursuant to this chapter.

3. Manual of accepted practice. The director shall prepare the Manual of Accepted Practices, consisting of building procedures and building materials that are in conformance with section 1415. The Manual of Accepted Practices shall not apply to nonresidential buildings in excess of 10,000 square feet of conditioned floor area.

4. Fees. The director shall promulgate a schedule of filing fees to be used to defray the cost of administering this chapter. The fees charged shall not exceed the following.

- A. The filing fee for the certification of a residential building shall not exceed \$25 per building.
- B. The filing fee for certification of a nonresidential building shall not exceed \$50 per building.

5. Calculation of heat loss. Heat loss shall be calculated by methods provided in chapter 43 of the American Society of Heating, Refrigeration and Air-conditioning Engineer's Handbook and Product Directory, 1976 Systems Volume. The director may approve alternate methods of heat loss calculations which are demonstrated to give equivalent results.

§ 1418. Municipal administration

1. Authority. The director, with the approval of the municipal officers, may delegate the authority and responsibility for the administration of this chapter to

municipalities. The director shall grant this request if he finds that the municipality has appointed a competent inspector and is capable of carrying out the intent of this chapter.

2. **Procedures.** Any municipality receiving administrative authority shall comply with all standards, rules and regulations promulgated under this chapter.

3. **Fees.** Municipalities may not collect fees in excess of the fees established under section 1417. In these municipalities the municipal officers shall determine the disbursement of these fees.

4. **Revocation.** If at any time the director determines that a municipality has failed to exercise this authority in accordance with the provisions of this chapter, the director shall revoke the municipality's administrative authority.

§ 1419. Disposition of fees

All revenue generated from fees collected by the Office of Energy Resources under this chapter shall be deposited with the treasurer in a separate fund to be expended for the administration of this chapter. Any revenue not expended at the end of the year during which it is collected shall not lapse but shall be carried forward for the purposes specified in this section.

§ 1420. Penalties

It shall be unlawful for any person to advertise or promote that any residential or nonresidential building conforms to the provisions of this chapter unless a certificate of energy efficiency has been granted for that building.

Any person who violates this provision shall be subject to a civil penalty not to exceed \$5,000, payable to the State, to be recovered in a civil action.

Sec. 3. **Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

	1979-80	1980-81
EXECUTIVE DEPARTMENT		
Office of Energy Resources		
Positions	(2)	(2)
Personal Services	\$ 19,875	\$ 26,500
All Other	3,750	5,000
	<hr/>	<hr/>
	\$ 23,625	\$ 31,500

The moneys appropriated under the Act shall be used to hire 2 unclassified employees, one of whom shall be an administrative person and the other shall be a clerical person to carry out the purpose of this Act.

Sec. 4. Effective date. This Act shall take effect 90 days following final adjournment of the Legislature, except that the provisions of Title 10, sections 1415 and 1420 shall be suspended until March 1, 1980. All standards, rules and regulations promulgated under Title 10, chapter 214 shall be presented to the Joint Standing Committee on Energy and Natural Resources, and Title 10, sections 1415 and 1420 shall remain suspended until the committee has completed a review of these standards, rules and regulations. All standards, rules and regulations promulgated under Title 10, chapter 214 and reviewed by the committee shall thereafter be in effect until 90 days after the date of adjournment of the next regular session of the Legislature unless the next regular session shall adopt by legislative enactment the standards, rules, regulations or amendments thereto.

Effective September 14, 1979 unless otherwise indicated

CHAPTER 504

H. P. 1163 — L. D. 1468

AN ACT to Allow the Board of Environmental Protection to Regulate Activities Affecting Sand Dunes under the Alteration of Coastal Wetlands Program.

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

Sec. 1. 38 MRSA § 471, as enacted by PL 1975, c. 595, § 3, is amended to read:

§ 471. Prohibitions

No individual person firm, corporation, municipality, state agency or other legal entity shall dredge or cause to be dredged, drain or cause to be drained, fill or cause to be filled or erect or cause to be erected a causeway, bridge, marina, wharf, dock or other permanent structure in, on or over any coastal wetland; or **bulldoze, remove, add or displace sand, or build any permanent structure in, on or over any coastal sand dune** without first obtaining a permit therefor from the Board of Environmental Protection or a municipality acting under the provisions of sections 473 and 474; nor shall any action be taken in violation of the conditions of such permit, once obtained.

Sec. 2. 38 MRSA § 472, as enacted by PL 1975, c. 595, § 3, is repealed and the following enacted in its place:

§ 472. Definition