

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2453

H. P. 1916

House of Representatives, January 25, 1974

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Cooney of Sabattus.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Establish the Maine Building Code Council.

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

Sec. 1. R. S., T. 5, c. 13-A, sub-c. II, additional. Chapter 13-A of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 497 of the public laws of 1971, is amended by adding a new subchapter II to read as follows:

SUBCHAPTER II

MAINE BUILDING CODE COUNCIL

§ 288. Name

This subchapter shall be known and may be cited as the "Maine Building Code Council Act."

§ 289. Declaration of purpose

It is found and declared that in the interests of the efficient, safe and sound construction and improvement of all buildings owned or to be owned by the State Government, it is necessary and desirable that there shall be promulgated and adopted a uniform code to which all such state buildings, and improvements thereto, shall be built.

It is found and declared that many communities within this State do not have building codes and that the building codes which do exist in communities of this State, as enacted and implied, are not uniform and impede the utilization of new and improved technology, techniques and methods and materials in the construction of buildings.

It is further found and declared that uniformity of building codes and uniformity in procedures for enforcing codes throughout the nation and the State are matters of nation-wide and state-wide interest and concern. Uniformity would increase the efficiency in the building industry and the available supply of housing and other buildings, and further ensure the safety of the products as well as eliminate substandard construction.

It is intended, by this Act, to create conditions in this State which will facilitate uniformity in building code enforcement, promote the use of new and improved technologies, techniques, methods and materials, improve the supply and safety of housing and other buildings, and provide for the proper training and certification of local code enforcement officials.

§ 290. Maine Building Code Council

The Maine Building Code Council, hereinafter in this subchapter called the "council," is created. The council shall consist of 15 members, residents of the State. The following members shall be appointed by the Governor, with the advice and consent of the Executive Council, for 3-year terms of office and shall serve until qualified successors are appointed, except that the Governor for the first appointments to the council shall appoint 3 members for terms of 3 years, 3 members for terms of 2 years, and 2 members for terms of one year: One registered architect; 3 professional engineers registered in the State of Maine, one practicing mechanical, one practicing structural and one practicing electrical engineer; one general contractor; 2 building officials in office on the effective date of their appointment to the council, one from a municipality with a population of 10,000 persons or more and one from a municipality with a population of 10,000 persons or less; and one consumer representative. In addition, the following shall be members of the council, to serve at the pleasure of the bodies whose duty it is to appoint them: One representative of the Maine State Housing Authority, to be appointed by the Commissioners of the Maine State Housing Authority; one representative of the Bureau of Public Improvements, to be appointed by the State Director of Public Improvements with the approval of the Commissioner of Finance and Administration; one representative of the Maine Municipal Association to be appointed by that association; one inspector of the State Electrical Examiner's Board; one inspector of the State Oil Burner Men's Licensing Board; one representative of the State Fire Prevention Bureau and one representative of the State Plumbers' Examining Board.

Each member of the council shall receive per diem compensation at the rate of \$30 per day for each day spent in the performance of his duties and be reimbursed for travel expenses incurred.

The members of the council shall choose one of their members to be the chairman of the council for a period of one year. No member shall be chairman for more than one year.

The council members shall meet at the request of the chairman of the council or at the request of 4 or more members of the council, such request to be made not less than 14 days prior to the date of the requested meeting. The council shall meet no fewer than 6 times per year.

The council shall establish rules and regulations and bylaws for its internal operation.

No member may act as a member of the council or vote as such, in connection with any matter in which he has a private interest.

Eight members of the council shall constitute a quorum. For the purpose of conducting business, a vote of the majority of the whole of the council shall be required.

§ 290-A. —powers of the council

1. Rules and regulations. The council shall adopt, amend or repeal rules and regulations governing:

A. The construction and improvement of all state buildings and inspection thereof for compliance with the Maine Building Code;

B. The issuance and revocation of permits or licenses for state buildings or improvements thereto;

C. The standards and requirements for materials to be used in connection therewith, including, but not limited to, standards and requirements for safety, noise insulation, noise abatement, energy conservation, ingress and egress and sanitary conditions.

2. Code. The rules and regulations shall comprise and collectively be known as the Maine Building Code.

3. Studies and report. The council shall, in addition, make a full and thorough study of and recommendations on, the adoption of a state-wide building code for all residential and commercial structures, whether publicly or privately owned, to be constructed in the State of Maine. In addition to the issuance of a final report, the council shall issue such interim reports as it deems necessary and advisable, and shall also draft and propose legislation to implement the findings of fact and recommendations of law in its final report. The council shall make such interim reports, its final report, and its recommendations to the Legislature and to the Governor, who shall cause all such documents to be published for the public.

4. Hearings. Before promulgating and adopting the Maine Building Code, and before the issuance of any report, either interim or final or before the issuance of recommended legislation, the council shall hold public hearings and in connection therewith, invite witnesses, take testimony and accept written studies, reports and statements. The council may designate one or more of its members to hold public hearings and report to the council. The council shall cause notice to be given of such public hearings, including the time and place thereof, at least 2 weeks prior to the holding of such hearings. The notice for such hearings shall, in addition, include a statement to the effect that anyone who so desires may appear as a witness and testify before the hearing.

5. Recommendations. The council shall make a continual study of the operation of the Maine Building Code and other laws relating to the con-

struction of and improvement of all state buildings, to ascertain the effect upon the cost of the building construction and determine the effectiveness of their provisions for health, safety and security; authorize or provide for the testing and approval of materials, devices, methods of construction; hear appeals pursuant to section 290-E; decide, upon application by a private party, local enforcement agency, building official or code enforcement officer, the new technologies, techniques and materials which have been tested were necessary and found to meet the objectives of the Maine Building Code, shall be deemed to meet that Code. These determinations shall be binding upon all local code enforcement agencies, building officials and code enforcement officers throughout the State. The council may appoint experts, consultants, technical advisors and advisory committees for assistance and recommendations relative to the formation and adoption of the Maine Building Code and for carrying out the purposes of this subchapter; make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

§ 290-B. Orientation of performance of materials

The Maine Building Code to be adopted by the council shall be oriented toward the performance of materials rather than the designation of specified materials.

§ 290-C. Maine Building Code

1. The council shall consider and may adopt the codes, standards and requirements which apply to buildings promulgated by such organizations as the Building Officials and Code Administrators International, Inc., International Conference of Building Officials, Southern Building Code Congress, Council of American Building Officials, which establish standards and requirements for, inter alia, safety, ingress and egress, noise insulation and abatement, energy conservation and sanitary conditions. The council shall endeavor to maintain the rules and regulations current with the state-of-the-art.

2. The Maine Building Code shall be designed to achieve the following specific objectives:

A. Provide uniform standards and requirements for, inter alia, construction and construction materials, consistent with accepted standards of engineering and fire prevention practices;

B. To the extent practicable, set forth the standards, specifications and requirements in terms of performance objectives so as to facilitate the use of new technology, techniques and materials;

C. To the extent practicable, make the Maine Building Code consistent with the codes and standards of other states;

D. See that such codes do not necessarily increase the cost of construction in the State; and

E. See that the State will be allowed to be adequately represented in the code modification proceedings of the model code group whose code is proposed to be adopted.

§ 290-D. Administration

The Bureau of Public Improvements shall serve as the secretariat of the Maine Building Code Council.

§ 290-E. Appeals

1. The council shall promptly hear and decide appeals brought by any person or party in an individual capacity, or on behalf of a class of persons or parties, affected by any rule, regulation or decision pursuant to this Act.

2. Prior to appeal to the council, appeals of decisions or rulings of a local enforcement agency shall be heard by the appropriate local appeals board. If there is no local appeals board for the jurisdiction, appeals shall be taken directly to the council.

3. Final decisions by the council are reviewable on appeal in the Superior Court.

§ 290-F. Reservation of local zoning and related powers

Except as provided pursuant to this Act, requirements for land use zoning, building setbacks, side and rear yards and site development and property lines are reserved to local government.

§ 290-G. Violations and penalties

Any person who violates any provision of this Act or the Maine Building Code is guilty of a misdemeanor and shall be fined not more than \$1,000 upon conviction for each offense.

A separate violation is deemed to have occurred with respect to each building not in compliance. Each day the violation continues constitutes a separate violation.

§ 290-H. Injunctive relief

The Maine Building Code Council may obtain injunctive relief from any court of competent jurisdiction to enjoin the sale, delivery, use, occupation, erection, alteration or installation of any building covered by this Act upon an affidavit by the council specifying the manner in which the building does not conform to the requirements of this Act or the Maine Building Code.

Sec. 2. **Effective date.** The Maine Building Code shall take effect when the adopted rules and regulations are filed with the Secretary of State. All other provisions of this Act shall become effective 90 days after the adjournment of the Legislature.

Sec. 3. **Appropriation.** There is appropriated from the General Fund to the Department of Finance and Administration the sum of \$50,000 for the fiscal year 1974-75. The breakdown shall be as follows:

	1974-75
FINANCE AND ADMINISTRATION, DEPARTMENT OF	
Bureau of Public Improvements	
Unallocated	\$50,000

STATEMENT OF FACT

This bill implements Management and Cost Survey Recommendation #38 of the Bureau of Public Improvements. The purpose of the bill is to create a Maine Building Code Council which shall, after study and consultation, propose regulations and present legislation necessary to enact a uniform Maine Building Code.

This bill was supported by the Governor in his Special Message of January 10, 1974 to the Special Session of the 106th Maine Legislature.