

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-536)  
109TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 522, L.D. 666, Bill, "AN  
ACT to Establish Energy Efficiency Building Performance  
Standards for the State of Maine."

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

'Sec. 1. 5 MRSA §5004, sub-§3, §§J, K, L and M are en-  
acted 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 areas 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 as a dwelling unit for between one and 10 families which is not more than 3 stories in height and has no more than 7,000 square feet of gross floor area. Buildings having multiple use shall be considered residential buildings if 75% or more of the conditioned floor area is used for residential purposes.

17. Value of the building. "Value of the building" means the 100 percent valuation of the building derived from the municipal valuation as determined by the municipality in which the building is located or the valuation determined by the Bureau of Taxation for buildings located in unorganized and de-organized areas as defined in Title 12, section 682.

§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 8 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 and 2 members who are elected officials of a county or municipality. Public members shall serve for 4 years except as <sup>in this section</sup> provided 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.  
7 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 Maine the 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 Maine the Administration 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.

Energy performance standards for nonresidential buildings  
as defined in /1417 shall apply to all new nonresidential build-  
ings, all renovated nonresidential buildings in which the cost  
of the renovation exceeds 25% of the value of the building, all  
additions of more than 1000 square feet of conditioned floor  
area to nonresidential buildings and all nonresidential build-  
ings in which there is a change of use as defined in this chapter.  
The director may grant exemptions from the standards adopted  
pursuant to this chapter according to the <sup>following</sup> ~~the~~ provisions.

A. Any existing nonresidential building in which alteration  
or renovation to comply with the standards would sacrifice  
historical architecture or significance of the building,  
structural integrity of the building or would create costs  
that cannot be justified by the estimated energy savings  
may be exempted from the standards of this chapter.

B. A nonresidential building which is intended for use only  
during the period between May / <sup>1st</sup> and October / <sup>15th</sup> may be ex-  
empt from the standards of this chapter.

C. Any building constructed in non-compliance with the pro-  
visions of this chapter that is more energy efficient than  
required by the provisions of this chapter may be exempt  
from the standards required by the chapter.

§1416. Procedure

1. Notice of intent. Prior to the construction, expansion,



renovation or change of use 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. Violations. If, upon inspection, a building is determined not to meet the standards, the owner of that building shall be notified in person or by registered mail within 5 days of the inspection. If the discrepancies are not corrected within 30 days of the inspection, the owner of the building shall be in violation of this chapter.

6. 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 /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 con-

sistent 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

1. Nonresidential buildings. It shall be unlawful for the owner of any nonresidential building constructed, renovated or changed in use, for which the construction, renovation or change of use has been commenced after the effective date of this chapter to permit the use or occupancy of a building unless a certificate of energy efficiency has been granted certifying that the building meets the provisions of this chapter.

Any person who violates this provision shall be deemed to have committed a civil violation for which a forfeiture of not less than \$200 nor more than \$500 per day shall be adjudged.

2. Residential buildings. It shall be unlawful for any person to advertise or promote that a residential 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 deemed to have committed a civil violation for which a forfeiture of not more than \$5000 shall be adjudged.

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

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

The moneys appropriated under the Act shall be used to hire two 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 1415 and 1420 that the provisions of Title 10, sections / 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.'

#### STATEMENT OF FACT

This amendment requires new nonresidential buildings to comply with energy performance standards that meet the State of Maine Energy Conservation Building Standards. Residential Buildings advertised as meeting the standards are required to conform chapter 214. to the provisions of Title 10, / The amendment requires the Advisory Council on Energy Efficiency Building Performance Standards to approve the standards and the Joint Standing Committee on Energy and Natural Resources to review the standards prior to promulgation of the standards.

The amendment establishes a procedure for any person or firm that plans to construct a building required to meet the state's energy performance standards described as follows.

1. Prior to construction, the owner files a notice of intent with the Office of Energy Resources to construct or renovate a building. The owner may certify that the building is designed to meet the energy standards, may adopt the Manual of Accepted Practices which meets the standards or may file building plans for review.

2. The owner is required to notify the Director of the Office of Energy Resources when the building is ready for inspection. The building may be inspected by the Office of Energy Resources, a municipal inspector or any other inspector authorized by the Director of the Office of Energy Resources. If a residential building is not inspected within 3 days and a non-residential building is not inspected within 5 days from the date specified by the Director, the owner may complete the building without an inspection.

3. Certificate of Energy Efficiency will be issued for buildings that pass inspection or for buildings certified by the owner that the building has been constructed to a design that conforms to the state's energy performance standards.

Any owner of a non-residential building who fails to comply with the energy standards and permits the building to be occupied is subject to a per diem fine. Any owner of a residential building required to meet the standards and who fails to comply is subject to a fine.