

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 666**

H. P. 522

House of Representatives, February 20, 1979

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Huber of Falmouth.

Cosponsors: Mr. D. Carter of Winslow, Mr. Morton of Farmington and Mr. Davies of Orono.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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

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

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

**J. Promulgate rules for the administration of energy efficiency building performance standards and the certification of energy efficient buildings, as defined in Title 10, chapter 214;**

**K. Approve or deny plans of construction and issue or deny certificates of approval, as required in Title 10, chapter 214;**

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

**M. Inspect or provide for the inspection of buildings to determine compliance of the building with 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 energy consumption 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. BTU. "BTU" shall mean British Thermal Unit which is the amount of thermal energy required to raise one pound of water one degree fahrenheit.

2. Commission. "Commission" shall mean the Commission on Energy Efficiency Building Performance Standards.

3. Conditioned floor area. "Conditioned floor area" shall mean the floor area within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.

4. Conditioned space. "Conditioned space" shall mean space within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.

5. Director. "Director" shall mean the Director of the Office of Energy Resources.

6. Gross floor area. "Gross floor area" shall mean 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.

7. Heat loss. "Heat loss" shall mean the transfer of thermal energy from the conditioned space to the outside or to an unconditioned space by means of conduction or infiltration.

8. Infiltration. "Infiltration" shall mean the uncontrolled movement of air into and out of the conditioned space through cracks and interstices in the building envelope.

9. Manual of Accepted Practices. "Manual of Accepted Practices" shall mean the Manual of Accepted Practices prepared by the Office of Energy

Resources in conformance with the standards, as defined in the State of Maine Energy Conservation Building Standards.

10. **Nonresidential building.** “Nonresidential building” shall mean any building with a conditioned space in which less than 75% of the conditioned floor area is not used for residential purposes.

11. **Person.** “Person” shall mean any natural person, firm, partnership, association, corporation or governmental entity.

12. **Renovation.** “Renovation” shall mean 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.

13. **Residential building.** “Residential building” shall mean a structure designed and erected as a dwelling unit for between one and 10 families which is no greater than 3 stories in height. Buildings having multiple use shall be considered residential buildings if 75% or more of the conditioned floor area is used for residential occupancy.

14. **Value of the building.** “Value of the building” shall mean the 100% valuation of the building derived from the municipality in which the building is located, or the valuation determined by the Bureau of Taxation for buildings located in unorganized and deorganized areas, as defined in Title 12, section 682.

15. **Zone 1.** “Zone 1” shall include all areas of the State lying north of a line formed by the northerly boundaries of Grafton; Andover; North Surplus; Byron; Township 6 north of Weld; Phillips; Salem Township; Freeman Township; New Portland; Concord Township; Bingham; Brighton Township; Wellington; Abbot; Guilford; Bowerbank; Katahdin Iron Works Township; Township 5, Range 9, North of Waldo Patent; Township 4, Range 9, North of Waldo Patent; Long A Township; Veazie Gore; Indian Purchase Township 3; Indian Purchase Township 4; Grindstone Township; Township 1, Range 6, West of the Easterly Line of the State; Township 1, Range 5, West of the Easterly Line of the State; Upper Molunkus Township; Reed Plantation; Bancroft; and Weston.

16. **Zone 2.** “Zone 2” shall include all areas of the State lying south of the line described in subsection 15 and lying north of the line formed by the northerly boundaries of Fryeburg; Bridgton; Harrison; Otisfield; Poland; Mechanic Falls; Minot; Turner; Leeds; Wayne; Readfield; Manchester; Sidney; Waterville City; Winslow; Albion; Unity; Thorndike; Jackson; Monroe; Winterport; Bucksport; Dedham; Otis; Mariaville; Osborn Plantation; Township 22, Middle Division; Beddington; Township 24; Middle Division, Bingham Penobscot Purchase; Township 25, Middle Division, Bingham Penobscot Purchase; Northfield; East Machias; Marion Township; Edmunds Township; Trescott Township; and Lubec.

17. **Zone 3.** Zone 3 shall include all areas of the State lying south of the line described in subsection 16.

**§ 1414. Buildings subject to performance standards**

1. **Residential buildings.** Any residential building which is offered for sale or lease and is advertised, promoted or in any way declared to meet the State of Maine Energy Conservation Building Standards or any other standard in conformance with the State of Maine Energy Conservation Building Standards shall meet the energy performance standards of this chapter.

2. **Nonresidential buildings.** All new nonresidential buildings, all renovated nonresidential buildings in which the cost of renovation is 25% or more of the value of the building and all additions of more than 100 square feet of conditioned floor area to nonresidential buildings shall meet the energy performance standards of this chapter.

**§ 1415. Exemptions**

Nonresidential buildings in which alteration or renovation to comply with the law 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 this chapter by the Director of the Office of Energy Resources.

**§ 1416. Energy performance standards for residential buildings**

All residential buildings required to comply with energy performance standards shall be in conformance with the State of Maine Energy Conservation Building Standards, prepared by the commission to include the following heat loss standards.

1. **Zone 1.** For residential buildings located in zone 1, the heat loss of the buildings shall not exceed 70,000 BTUs per square foot of gross floor area of conditioned space per year.

2. **Zone 2.** For residential buildings located in zone 2, the heat loss of the buildings shall not exceed 65,000 BTUs per square foot of gross floor area of conditioned space per year.

3. **Zone 3.** For residential buildings located in zone 3, the heat loss of the buildings shall not exceed 60,000 BTUs per square foot of gross floor area of conditioned space per year.

**§ 1417. Energy performance standards for nonresidential buildings**

All nonresidential buildings required to comply with this chapter shall be in conformance with the State of Maine Energy Conservation Building Standards prepared by the commission to include the following heat loss standards.

1. **Zone 1.** For nonresidential buildings located in zone 1, the heat loss of the buildings shall not exceed 60,000 BTUs per square foot of gross floor area of conditioned space per year.

2. **Zone 2.** For nonresidential buildings located in zone 2, the heat loss of the buildings shall not exceed 55,000 BTUs per square foot of gross floor area of conditioned space per year.

3. **Zone 3.** For nonresidential buildings located in zone 3, the heat loss of the buildings shall not exceed 50,000 BTUs per square foot of gross floor area of conditioned space per year.

#### § 1418. Promulgation of rules

The Director of the Office of Energy Resources in accordance with the Administrative Procedure Act, Title 5, chapter 375, shall promulgate rules pertaining to the administration of this chapter, approval of building plans and the issue of certificates of approval as required by this chapter. The rules pertaining to approval of building plans and certificates of approval shall be in conformance with the provisions of the State of Maine Energy Conservation Building Standards, prepared by the Commission on Energy Efficiency Building Performance Standards.

The director may certify the energy performance standards of any other building code or building proposal that are in conformance with the standards prepared by the commission.

#### § 1419. Administration

1. **Submission of plan.** Every person who intends to construct or renovate a residential or nonresidential building required under section 1414 to comply with the State of Maine Energy Conservation Building Standards shall submit a plan of construction to the director for review of the energy conservation performance standards of the proposed building. The plan shall be submitted on forms provided by the Office of Energy Resources.

Any person who intends to construct or renovate a building according to the manual of accepted practices shall be subject to the provisions in section 1420.

2. **Contents of plan.** The plan shall consist of provisions required by the rules of the director which shall be sufficient to determine whether the building meets the State of Maine Energy Conservation Building Standards and shall include:

- A. The name and address of the builder;
- B. The name and address of the owner for whom the building is being constructed, if any;
- C. The location of the proposed building;
- D. The dimensions of the building;
- E. The projected date that the building shall be available for inspection;
- F. The type and thickness of insulation to be installed in the walls and roof;
- G. The number of square feet of window glass and doors;

**H. A description of the energy efficiency of service water heating equipment, lighting equipment and heating, ventilating and air conditioning equipment for nonresidential buildings; and**

**I. The projected heat loss of the proposed building.**

**3. Plan approval. If the plan, required by this section, conforms to the State of Maine Energy Conservation Building Standards, the director shall give plan approval to the applicant to commence construction. If the plan does not meet the standards, but the plan may be altered to conform to the standards, the director may approve the plan with conditions.**

**4. Rejection of plan. If the plan does not conform to the State of Maine Energy Conservation Building Standards the director shall disapprove the plan and inform the applicant, in writing, of the deficiencies of the plan. The applicant may resubmit a plan for review and shall not begin construction until approval has been given.**

**5. Certificate of approval. Every owner of a new residential or nonresidential building required by section 1414 to comply with the State of Maine Energy Conservation Building Standards, prior to the completion of the building, shall notify the director or an approved inspector, as provided in paragraph C, that the building is ready for inspection.**

**A. If the building is a nonresidential building, it shall be inspected. If the building conforms to the standards, the director shall issue a certificate of approval.**

**B. If the building is a residential building, it shall be inspected within 3 working days from the date that notification was received. If the building conforms to the standards, the director shall issue a certificate of approval. In the event that an inspection cannot be conducted within that time, the director shall issue a certificate of approval without an inspection.**

**C. The building may be inspected by a municipal inspector, a representative of a federal or state housing agency, a representative of the Office of Energy Resources or any other inspectors approved by the director to perform an inspection.**

**6. Appeal of decision. In the event that a plan approval or certificate of approval 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 inform the applicant whether the director shall provide the applicant with a hearing. Anyone aggrieved by a final decision of the director may appeal to the Superior Court.**

#### **§ 1420. Manual of Accepted Practices**

**In accordance with the Administrative Procedure Act, Title 5, chapter 375, the director shall prepare and adopt a Manual of Accepted Practices.**

1. **Contents.** The Manual of Accepted Practices shall consist of building procedures and building materials that are in conformance with the State of Maine Energy Conservation Building Standards. The Manual of Accepted Practices shall not apply to nonresidential buildings in excess of 15,000 square feet of conditioned floor area.

2. **Use of manual.** In lieu of including, in a building plan, the information required in section 1419, subsection 2, paragraphs F-I, an applicant may use the Manual of Accepted Practices for the construction, alteration or renovation of residential and nonresidential buildings.

#### § 1421. Fees

The fees for a certificate approval for a residential building shall not exceed \$25 and the fees for every inspection conducted or caused to be conducted by the Office of Energy Resources of a residential building shall not exceed \$100 per building.

The fees for a certificate of approval and an inspection conducted by the Office of Energy Resources of a nonresidential building shall not exceed \$4 per 100 square feet of conditioned floor area, except that the minimum fee shall be \$125.

The revenues generated from the fees shall be credited to the Office of Energy Resources to be expended for administering the chapter, including reviewing builder plans and inspecting buildings pursuant to this chapter. If any of the moneys are not expended during the year in which they are collected, the unexpended balance shall not lapse but shall be carried as a continuing account available for the purposes specified until expended.

#### § 1422. Prohibited acts

It shall be unlawful for any person to construct, alter or renovate a nonresidential building or a residential building required to meet the State of Maine Energy Conservation Building Standards of this chapter without plan approval by the Office of Energy Resources. It shall be unlawful for the owner of any nonresidential building constructed, altered or renovated for which the construction, alteration or renovation has commenced after the effective date of this chapter to permit the use or occupancy of a building that fails to meet the standards of this chapter unless a certificate of approval has been granted. It shall also be unlawful for any person to advertise, promote or declare in any way that a building conforms to the State of Maine Energy Conservation Building Standards when, in fact, a certificate of approval has not been granted.

#### § 1423. Penalties

Any person who violates this chapter shall be deemed to have committed a civil violation for which a forfeiture of not more than \$5,000 shall be adjudged.

#### § 1424. Advisory Council on Energy Efficiency Building Performance Standards



There is created an Advisory Council on Energy Efficiency Building Performance Standards to advise the Director of the Office of Energy Resources with respect to the administration of this chapter and the certification of buildings that meet the State of Maine Energy Efficiency Building Performance Standards. The membership of the council shall consist of 9 persons. The President of the Senate shall appoint one member of the Senate and the Speaker of the House shall appoint one member of the House. The Governor shall appoint one member who is a registered professional architect, one member who is a registered professional engineer, one member who is a practicing 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 herein provided and may be reappointed by the Governor for a succeeding term. Legislative members and 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.

§ 1425. Duties of advisory council

The Advisory Council on Energy Efficiency Building Performance Standards shall advise the director, as described in section 1424, and shall conduct an evaluation of this chapter 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.

§ 1426. Meetings and compensation of advisory council

The Advisory Council on Energy Efficiency Building Performance Standards shall meet at least 4 times per year and each member shall be compensated for every day that the advisory council convenes at a rate of \$25 per day.

**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	\$26,500	\$26,500
All Other	5,000	5,000
	\$31,500	\$31,500
Total	\$31,500	\$31,500

The moneys appropriated under this 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 purposes of this Act.

**Sec. 4. Effective date.** This Act shall take effect on January 1, 1980.

#### STATEMENT OF FACT

The purpose of this bill is to reduce energy consumption and the cost of energy to the consumer in Maine by constructing energy conserving homes and nonresidential buildings.

The bill establishes performance standards which can be met by any building plan or construction method that will produce the energy savings required by the standard in this bill.

Nonresidential buildings constructed after January 1, 1980, are required to meet the performance standards in the bill. New residential buildings are required to meet the standards only if those buildings are advertised as meeting the energy performance standards of the State.