

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1892

6 S.P. 739

In Senate, January 16, 1986

7 Approved for introduction by a majority of the Legislative Council  
8 pursuant to Joint Rule 26.

9 Reference to the Committee on Business and Commerce suggested and  
ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Hichens of York.

Cosponsored by Representative Jacques of Waterville and Senator Bustin  
of Kennebec.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-SIX  
16

17 AN ACT to License Building Contractors and  
18 Subcontractors to a Statewide Building  
19 Code.  
20

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

23 Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶(6-A) is  
24 enacted to read:

25 (6-A) Board of §35/Day 32 MRSA §10803  
26 Building  
27 Contractors

28 Sec. 2. 30 MRSA c. 236 is enacted to read:

29 CHAPTER 236

30 STATEWIDE BUILDING CODE

31 §4271. Definitions

1        As used in this chapter, unless the context indi-  
2 icates otherwise, the following terms have the follow-  
3 ing meanings.

4        1. Board. "Board" means the Board of Building  
5 Contractors, as defined in Title 32, chapter 107.

6        2. BOCA. "BOCA" means the Building Officials  
7 Code and Administrators International, 1984 edition,  
8 which is the Statewide Building Code.

9        3. Building. "Building" means any combination of  
10 materials, whether portable or fixed, which comprises  
11 a structure affording facilities or shelter for any  
12 use or occupancy. The word "building" shall be con-  
13 strued, wherever used in this chapter, as if followed  
14 by the words "or part or parts thereof and all equip-  
15 ment therein," unless the context clearly requires a  
16 different meaning. "Building" does not mean manufact-  
17 ured housing or mobile homes certified pursuant to  
18 the industrialized housing law of the State.

19       4. Building tradesman. "Building tradesman"  
20 means an individual, firm, corporation, association  
21 or partnership engaged in construction activities, as  
22 defined in subsection 8.

23       5. CABO Code. "CABO Code" means the 1984 edition  
24 of the Council of American Building Officials Code  
25 for townhouses and one-family and 2-family resi-  
26 dences.

27       6. Certifying agent. "Certifying agent" means a  
28 professional, registered architect or engineer or a  
29 licensed building contractor approved by the board  
30 pursuant to Title 32, chapter 107.

31       7. Code. "Code" means the Statewide Building  
32 Code.

33       8. Construction. "Construction" means the erec-  
34 tion, reconstruction, demolition, alteration, conver-  
35 sion, repair and equipping of buildings.

36       9. Local building official. "Local building of-  
37 ficial" means an individual appointed by a local en-  
38 forcement agency to carry out and enforce the provi-

1 sions of the Statewide Building Code established by  
2 this chapter.

3 10. Local enforcement agency. "Local enforcement  
4 agency" means the agency or agencies of local govern-  
5 ment with authority to make inspections of buildings  
6 and to enforce the laws, ordinances and rules enacted  
7 by the local governments which establish standards  
8 and requirements applicable to the construction, al-  
9 teration, repair or demolition of buildings.

10 11. Local government. "Local government" means  
11 any county, city, municipal corporation, town or oth-  
12 er political subdivision of this State with authority  
13 to establish standards and requirements applicable to  
14 the construction, alteration, repair or demolition of  
15 buildings.

16 12. NFPA Code. "NFPA Code" means the National  
17 Fire Protection Association Code, Standard #70, 1984  
18 edition.

19 13. Statewide Building Code. "Statewide Building  
20 Code" means the 1984 edition of the Building Offi-  
21 cial's Code and Administrators International, the 1984  
22 edition of the Council of American Building Officials  
23 Code as it appears to townhouses and one-family and  
24 2-family residences and the National Fire Protection  
25 Association Code.

26 §4272. Statewide Building Code

27 1. Code established. The 1984 edition of the  
28 code of the Building Officials Code Administrators  
29 International, Inc., including all amendments and  
30 supplements to the code through 1984, the 1984 edi-  
31 tion of the Council of American Building Officials  
32 Code and the National Fire Protection Association  
33 Code are established as the building code for all  
34 building construction throughout the State, including  
35 all municipalities, plantations and unorganized  
36 places.

37 2. Effective date of code. The effective date of  
38 the Statewide Building Code, as distinguished from  
39 the effective date of this chapter, is January 1,  
40 1987.

1           3. Certificate of occupancy. No building con-  
2 structed after the effective date of the Statewide  
3 Building Code may be used or occupied until a certif-  
4 icate of occupancy has been issued. Applications for  
5 certificates of occupancy shall be submitted, in  
6 writing, to the local enforcement agency pursuant to  
7 the Statewide Building Code. A certificate of occu-  
8 pancy shall be issued if the building to which the  
9 application pertains has been constructed in accord-  
10 ance with the building permit, the Statewide Building  
11 Code and other applicable laws and ordinances.

12           §4273. Exemption from this chapter

13           Any buildings subject to Title 5, section 1742,  
14 subsection 6-A are exempt from this chapter.

15           §4274. Board of Building Contractors; administrative  
16 authority

17           The Board of Building Contractors, as defined in  
18 Title 32, chapter 107, shall be the administrative  
19 authority for the implementation and enforcement of  
20 this chapter. The board may:

21           1. Adopt, amend and repeal provisions. Adopt,  
22 amend or repeal provisions of the Statewide Building  
23 Code as deemed necessary by the board. Prior to  
24 adopting any amendment to the Statewide Building  
25 Code, the board shall provide for public hearings at  
26 least 30 days prior to a public hearing. The authori-  
27 ty shall publish a notice at least twice in a newspa-  
28 per of general circulation in the State and in any  
29 trade, industry or professional publication which the  
30 division deems effective in reaching persons af-  
31 ected. The notice shall:

32           A. Reference the statutory authority under which  
33 the adoption of the rule or amendment is pro-  
34 posed;

35           B. Give the time and place of the public hearing  
36 and state the manner in which data, arguments or  
37 news may be submitted and whether orally or in  
38 writing; and

1           C. Summarize the substance of the proposed  
2           amendment, stating the subjects and issues in-  
3           involved.

4           Printed copies of this chapter and the code shall be  
5           available to the public at a price determined by the  
6           board;

7           2. Exercise authority at request of municipal  
8           officers. Upon the approval of a majority of the mu-  
9           nicipal officers, exercise authority with respect to:

10           A. The construction of all buildings and inspec-  
11           tion of buildings for compliance with the State-  
12           wide Building Code;

13           B. The issuance and revocation of permits or li-  
14           censes for building; or

15           C. The use or occupancy of buildings;

16           3. Enforce this chapter. Exercise the following  
17           procedure to enforce this chapter.

18           A. Any person deemed by the board to have vio-  
19           lated this subchapter or the Statewide Building  
20           Code may, upon a vote of the majority of board  
21           members, be assessed a penalty payment of not  
22           more than \$100 a violation, payable to the au-  
23           thority for use in administering this chapter.  
24           Violation of this chapter shall not be cause for  
25           imprisonment.

26           B. A separate violation is deemed to have oc-  
27           curring with respect to each building not in com-  
28           pliance. Each day the violation continues consti-  
29           tutes a separate violation.

30           C. The board may assess the prescribed penalty  
31           payment by affidavit of the executive director.  
32           If the assessed party appeals the assessment to a  
33           Superior Court, the penalty payment shall not be  
34           collectible until a finding by the court that a  
35           violation existed, that the assessed party caused  
36           or allowed to be caused the violation and that  
37           the assessment is reasonable.

1           D. The board may obtain injunctive relief from  
2 any court of competent jurisdiction to enjoin the  
3 sale, delivery, use, occupation, erection, alter-  
4 ation or installation of any building covered by  
5 this chapter upon an affidavit by the authority  
6 specifying the manner in which the building does  
7 not conform to the requirements of this chapter  
8 or the code.

9           E. The board shall inform the appropriate occu-  
10 pational or professional licensing board as de-  
11 defined in Title 5, section 12004, subsection 1, of  
12 any violation of this chapter that has been com-  
13 mitted by a licensee of that board;

14           4. Hold hearings. Hold hearings with respect to  
15 the administration and enforcement of this chapter;

16           5. Adopt rules. Adopt rules in accordance with  
17 the Maine Administrative Procedure Act, Title 5,  
18 chapter 375, to implement this chapter; and

19           6. Charge and collect fees. Charge and collect  
20 fees for the duties and services that it performs under  
21 this chapter.

22           A. Any and all funds received by the authority  
23 in the administration and enforcement of this  
24 chapter and the Statewide Building Code shall be  
25 maintained in a special fund available to the di-  
26 vision for carrying out the purposes of this  
27 chapter.

28           §4275. Effect of code on local building regulations  
29 and permits

30           Until the effective date of the Statewide Build-  
31 ing Code, as defined in section 4273, building regu-  
32 lations adopted by a local government shall continue  
33 in effect unless repealed by local law or ordinance.  
34 Thereafter, building regulations adopted by a local  
35 government shall be void and of no effect. A build-  
36 ing permit validly issued pursuant to local building  
37 regulations prior to the effective date of the code  
38 is valid thereafter and the construction of a build-  
39 ing may be completed pursuant to and in accordance  
40 with that permit. In areas of the State having no

1 building regulations or not requiring building per-  
2 mits, the construction of a building started before  
3 the effective date of the code may be completed with-  
4 out a building permit.

5 1. Local government regulations. Local govern-  
6 ments may establish requirements for land use set-  
7 backs, side and rear yards, site development and  
8 property lines.

9 §4276. Local government amendments

10 1. Local amendments. A local government may not  
11 adopt amendments to the code.

12 §4277. Building permits

13 Except as otherwise provided in the code, the  
14 construction of a building shall not begin until a  
15 building permit is issued. A building permit shall be  
16 issued if, upon submission of an application to a lo-  
17 cal enforcement agency, the building proposed to be  
18 erected will, in the opinion of the local building  
19 official, comply with this chapter, the Statewide  
20 Building Code and all other applicable laws, ordi-  
21 nances or regulations. A local enforcement agency may  
22 suspend or revoke a building permit if the building  
23 under construction pursuant to the permit does not  
24 comply with this chapter or the Statewide Building  
25 Code.

26 1. Municipalities without building inspectors or  
27 without expertise in the Statewide Building Code. In  
28 the event that a municipality or unorganized place  
29 does not have a building inspector or the local en-  
30 forcement agency lacks expertise in the Statewide  
31 Building Code, the applicant shall obtain certifica-  
32 tion from a professional registered engineer or ar-  
33 chitect in this State or from a reputable licensed  
34 building contractor approved by the Board of Building  
35 Contractors pursuant to Title 32, chapter 107, that  
36 the building will comply with this chapter. Any costs  
37 incurred as a result of the procedure established in  
38 this subsection shall be borne by the applicant for  
39 the building permit.



1           2. Inspection. A local enforcement agency or the  
2 person certifying compliance to the code pursuant to  
3 subsection 1 shall periodically inspect all construction  
4 undertaken pursuant to building permits issued  
5 for projects approved for construction to assure com-  
6 pliance with this chapter and the Statewide Building  
7 Code. The owner of a building under construction is  
8 deemed to have consented to inspection by a local en-  
9 forcement agency or certifying agent pursuant to sub-  
10 section 1, by applying for a building permit or re-  
11 questing certification. An inspection may be made of  
12 any building at any time if a local enforcement agen-  
13 cy or certifying agent has probable cause to believe  
14 that a condition hazardous to life or property ex-  
15 ists. If a building is found not to comply with the  
16 code, the local enforcement agency or certifying  
17 agent shall notify the person named in the permit, in  
18 writing, to bring the building into compliance with  
19 the code, or to secure it from entry, or both.

20   §4278. Statutory civil action

21           Notwithstanding any other remedies available, any  
22 person or party, in an individual capacity or on be-  
23 half of a class of persons or parties, damaged as a  
24 result of a violation of this chapter or the State-  
25 wide Building Code, has a cause of action in any  
26 court of competent jurisdiction against the person or  
27 party who committed the violation and, if the in-  
28 spected party can prove his actions were approved,  
29 against the local government which permitted the vio-  
30 lation. Any award may include actual damages and the  
31 cost of litigation, including reasonable attorneys'  
32 fees. Local enforcement agencies and the local gov-  
33 ernments may be sued under this section, but their  
34 liability shall be limited to the funds available at  
35 the commencement of the action in the control of the  
36 local enforcement agency or funds appropriated spe-  
37 cifically to honor a claim won under this chapter by  
38 an aggrieved party. The local building inspector  
39 shall not be personally liable under this section.

40           Sec. 3. 32 MRSA c. 107 is enacted to read:

41                           CHAPTER 107

42                           BUILDING CONTRACTORS LICENSING ACT

1     §10801. Definitions

2             As used in this chapter, unless the context indi-  
3 icates otherwise, the following terms have the follow-  
4 ing meanings.

5             1. Advertisement. "Advertisement" means any  
6 written or oral publication, dissemination, sollicita-  
7 tion or circulation which is intended to directly or  
8 indirectly induce any person to enter into an agree-  
9 ment for residential contracting services with a con-  
10 tractor, including the use of business cards and tel-  
11 ephone directory display advertisements.

12            2. Board. "Board" means the Board of Building  
13 Contractors, as defined in section 10802.

14            3. BOCA. "BOCA" means the 1984 edition of the  
15 Building Officials Code and Administrators Interna-  
16 tional, as defined in Title 30, chapter 236.

17            4. Building construction activity. "Building  
18 construction activity" means the construction, recon-  
19 struction, alteration, repair, conversion or improve-  
20 ment of commercial, individual or residential build-  
21 ings or structures.

22            5. Building contractor. "Building contractor"  
23 means a general contractor, subcontractor or special-  
24 ty contractor, as defined in this section.

25            6. CABO Code. "CABO Code" means the 1984 edition  
26 of the Council of American Building Officials Code  
27 for townhouses and one-family and 2-family resi-  
28 dences.

29            7. Commercial contractor. "Commercial contrac-  
30 tor" means any contractor whose building construction  
31 activity is primarily related to commercial or indus-  
32 trial buildings and structures, including, but not  
33 limited to:

34            A. Apartment complexes of 7 units or more;

35            B. Structures housing businesses;

36            C. Hospitals; and

1           D. Schools.

2           8. Commissioner. "Commissioner" means the Com-  
3 missioner of Business, Occupational and Professional  
4 Regulation.

5           9. Department. "Department" means the Department  
6 of Business, Occupational and Professional Regula-  
7 tion.

8           10. General contractor. "General contractor"  
9 means any person, firm, corporation or business orga-  
10 nization which engages in the construction, recon-  
11 struction, alteration, repair, conversion or improve-  
12 ment of commercial, industrial or residential build-  
13 ings. General contractor includes subcontractors and  
14 specialty contractors when these contractors contract  
15 with a person, firm or corporation other than a gen-  
16 eral contractor for the performance of building con-  
17 struction activities.

18           11. NEPA Code. "NEPA Code" means the National  
19 Fire Protection Association Code, Standard #70, 1984  
20 edition.

21           12. Specialty contractor. "Specialty contractor"  
22 means a contractor who performs construction work re-  
23 quiring special skill and involves the use of spe-  
24 cialized construction trades or crafts.

25           13. Statewide Building Code. "Statewide Building  
26 Code" means the building performance code defined in  
27 Title 30, chapter 236, which shall serve as the  
28 building standard for all municipalities, plantations  
29 and unorganized places in the State.

30           14. Subcontractor. "Subcontractor" means any  
31 person, firm, corporation or business organization  
32 which contracts with a general contractor for part or  
33 all of a building construction contract for the con-  
34 struction, reconstruction, alteration, conversion,  
35 repair, improvement, burnishing or equipping of a  
36 commercial, industrial or residential building.

37           §10802. Board of Building Contractors; establish-  
38 ment, membership, compensation

1           1. Established. The Board of Building Contrac-  
2 tors, as authorized by Title 5, chapter 379, is es-  
3 tablished within the Department of Business, Occupa-  
4 tional and Professional Regulation to administer this  
5 chapter. The board shall consist of 7 members ap-  
6 pointed by the Governor.

7           2. Appointment and membership. The membership of  
8 the board shall consist of 2 residential building  
9 contractors, one commercial or industrial contractor,  
10 one professional registered architect actively in-  
11 volved in construction contracts, one professional  
12 registered engineer actively involved in construction  
13 design contracting, the State Fire Marshal and one  
14 public member who shall not be and shall not previ-  
15 ously have been affiliated with the building con-  
16 struction industry.

17           3. Term of office. The term of office shall be 3  
18 years, except that of the first appointed members and  
19 the State Fire Marshal. Of the members first ap-  
20 pointed to the board, one residential building con-  
21 tractor and the professional registered engineer  
22 shall serve initial terms of one year; the profes-  
23 sional registered architect and the commercial indus-  
24 trial contractor shall serve initial terms of 2  
25 years; and the residential building contractor and  
26 the public member shall serve initial terms of 3  
27 years. No board member may serve more than 2 consecu-  
28 tive terms of office.

29           A. Upon expiration of a member's term, he shall  
30 serve until his successor is qualified and ap-  
31 pointed. The successor's term shall be 3 years  
32 from the date of that expiration regardless of  
33 the date of his appointment. Any vacancy shall be  
34 filled by appointment for the unexpired term. A  
35 member may be removed for cause which shall in-  
36 clude excessive absences from meetings of the  
37 board. "Excessive absence" means the absence from  
38 3 consecutive board meetings or the absence from  
39 1/4 of the total meetings of the board in a sin-  
40 gle calendar year.

41           4. Meetings. The board shall meet at least once  
42 a year to conduct its business and to elect its offi-  
43 cers. Additional meetings may be held as necessary to

1 conduct the business of the board and may be convened  
2 at the call of the chairman or a majority of the  
3 board members.

4 5. Compensation. Members of the board shall be  
5 compensated in accordance with Title 5, chapter 349.

6 6. Quorum. A majority of the voting members of  
7 the board constitutes a quorum. No action may be  
8 taken by the board except by affirmative vote of the  
9 majority of those present and voting.

10 §10803. Board of Building Contractors; powers and  
11 duties

12 1. Powers. The board shall administer and en-  
13 force this chapter and evaluate the qualifications of  
14 applicants for licensure. The board may issue subpoe-  
15 nas, examine witnesses, administer oaths and may in-  
16 vestigate or cause to be investigated any complaints  
17 made to it or any cases of noncompliance with or vio-  
18 lation of this chapter.

19 2. Rules. The board may promulgate, in accord-  
20 ance with the Maine Administrative Procedure Act, Ti-  
21 tle 5, chapter 375, rules relating to professional  
22 conduct to carry out the policy of this chapter, in-  
23 cluding, but not limited to, rules relating to pro-  
24 fessional licensure and to the establishment of ethi-  
25 cal standards of practice for persons holding a li-  
26 cence to undertake the construction of buildings in  
27 this State.

28 A. At least 20 days prior to the adoption of any  
29 rules pursuant to this chapter, the board may  
30 provide copies of the rules to the members of the  
31 joint standing committee of the Legislature to  
32 which is referred bills relating to the powers  
33 and duties of boards. The joint standing commit-  
34 tee may review the rule with respect to the rules  
35 compliance with legislative intent and send its  
36 comments to the board. The board may post the  
37 joint standing committee's response in a visible  
38 place within the main office of the board.

39 3. Hearings. Hearings may be conducted by the  
40 board to assist with investigations, to determine

1 whether grounds exist for suspension, revocation or  
2 denial of a license or as otherwise deemed necessary  
3 to the fulfillment of its responsibilities under this  
4 chapter. Hearings may be conducted in accordance with  
5 the Maine Administrative Procedure Act, Title 5,  
6 chapter 375, subchapter IV, to the extent applicable.

7 4. Records. The board shall keep such records  
8 and minutes as are necessary to the ordinary dispatch  
9 of its functions.

10 5. Contracts. The board may enter into contracts  
11 to carry out its responsibilities under this chapter.

12 6. Reports. No later than August 1st of each  
13 year, the board shall submit to the commissioner for  
14 the preceding fiscal year ending June 30th, its annu-  
15 al report of its operations and financial position,  
16 together with such comments and recommendations as  
17 the commissioner deems essential.

18 7. Implement and enforce the Statewide Building  
19 Code. The board shall implement and enforce the  
20 Statewide Building Code pursuant to Title 30, chapter  
21 236.

22 §10804. Board of Building Contractors; administra-  
23 tive provisions

24 1. Officers. The board shall appoint a secretary  
25 and may appoint other officers as it deems necessary.

26 2. Employees. With the advice of the board, the  
27 commissioner may appoint, subject to the Personnel  
28 Law, employees as may be necessary to carry out this  
29 chapter. Any person so employed may be located in the  
30 department and under the administrative and supervi-  
31 sory direction of the commissioner.

32 3. Budget. The board shall submit to the commis-  
33 sioner its budgetary requirements in the same manner  
34 as is provided in Title 5, section 1665.

35 §10805. License required

36 1. License required. Except as provided in this  
37 chapter, no person may engage in or hold himself out

1 as authorized to engage in building construction ac-  
2 tivity unless he is licensed in accordance with this  
3 chapter.

4 2. Individual professional license. An individu-  
5 al professional license may certify that the license  
6 holder is experienced in building construction activ-  
7 ities and, to the satisfaction of the board,  
8 knowledgeable of the Statewide Building Code. Only an  
9 individual may be issued an individual professional  
10 license.

11 3. Business enterprise license. A business en-  
12 terprise license may only be issued to a business en-  
13 terprise, including, but not limited to, a partner-  
14 ship, limited partnership and corporation. The busi-  
15 ness enterprise license shall certify that the owner  
16 or owners are licensed building contractors or that  
17 the owner or owners are not licensed building con-  
18 tractors but have, in the employ of the business en-  
19 terprise, one or more licensed building contractors  
20 sufficient, to the satisfaction of the board, to in-  
21 spect and supervise the construction projects of the  
22 firm.

23 A. The owner or owners of a building construc-  
24 tion enterprise who are building contractors may  
25 either be licensed as an individual professional  
26 licensee or as a business enterprise licensee.  
27 Nothing may be construed to require a building  
28 construction enterprise to obtain both an indi-  
29 vidual license and a business enterprise license.

30 §10806. Requirements for licensure

31 An applicant applying for a license as a building  
32 contractor shall file a written application provided  
33 by the board, showing to the satisfaction of the  
34 board that he meets the following requirements.

35 1. Residence. The applicant must be a resident  
36 of this State or, in the case of a nonresident, the  
37 applicant is readily available to the board and dem-  
38 onstrates sufficient financial means to satisfy  
39 claims that may be filed against the firm and that  
40 are found in violation of the law.

1           A. In the event that the applicant is not a res-  
2           ident of this State, the nonresident applicant,  
3           immediately upon being licensed, shall employ a  
4           resident agent to represent the applicant or ap-  
5           plicant's firm in the State.

6           2. Ethical character. The applicant must be a  
7           person of ethical character, as demonstrated in his  
8           personal and business relations.

9           3. Knowledge and understanding of the Statewide  
10          Building Code. The applicant must demonstrate knowl-  
11          edge and understanding of the Statewide Building  
12          Code.

13          4. Knowledge and experience in building con-  
14          struction activity. In the event that the applicant  
15          has no knowledge or experience in building construc-  
16          tion activity but demonstrates to the board's satis-  
17          faction that the firm's designated person has the  
18          necessary knowledge and experience, the license shall  
19          be issued to the designated person on the condition  
20          that the designated person meets the provisions of  
21          subsection 3.

22          A. Nothing in this chapter may be construed to  
23          hold an individual license holder in the employ  
24          of a firm or corporation liable in his personal  
25          and real property for construction activity con-  
26          ducted for and with the knowledge of the firm or  
27          corporation. Liability for violations of Title  
28          30, chapter 236, in this case, is with the firm  
29          or corporation for which the licensed individual  
30          is employed.

31          §10807. Examination for licensure

32          1. Requirements; fees. Only a person satisfying  
33          the requirements of section 10806 may apply for exam-  
34          ination or licensure in such a manner as the board  
35          prescribes. The application shall be accompanied by  
36          the nonrefundable fee prescribed by section 10808. A  
37          person who fails an examination may apply for reexam-  
38          ination upon payment of the prescribed fee.

39          2. Content. The examination may be written or  
40          oral and shall test the applicant's knowledge of the



1 Statewide Building Code and such other subjects as  
2 the board requires to determine the applicant's fit-  
3 ness to engage in building construction activity. The  
4 board shall establish standards for an acceptable  
5 performance.

6 3. Time and place. Applicants for licensure  
7 shall be examined at a time and place and under su-  
8 perVISION as the board requires. Examinations shall  
9 be given at least twice each year at places as the  
10 board determines. The board shall give reasonable  
11 public notice of these examinations in accordance  
12 with its rules.

13 4. Scores; review. Applicants may obtain their  
14 examination scores and may review their papers in ac-  
15 cordance with rules as the board establishes.

16 §10808. Fees

17 1. Amount. Fees may be established by the board  
18 in amounts which are reasonable and necessary for  
19 their respective purposes. The fees may not exceed  
20 the following amounts:

21 A. For an initial application, \$80;

22 B. For biennial renewal of a license, \$80; and

23 C. For a temporary license, \$40.

24 2. Disposal of fees. All fees received by the  
25 board shall be paid to the Treasurer of State to be  
26 used for carrying out this chapter. Any balance of  
27 fees shall not lapse but shall be carried forward as  
28 a continuing account to be expended for the same pur-  
29 poses in the following fiscal years.

30 §10809. Issuance of license

31 The board shall issue a license to any person,  
32 firm or corporation which meets the requirements of  
33 this chapter upon payment of the prescribed license  
34 fee.

35 §10810. Renewal of license

1           1. Biennial renewal. Any license issued under  
2 this chapter is subject to biennial renewal and ex-  
3 pires, unless renewed in the manner prescribed by the  
4 rules of the board, upon the payment of a renewal  
5 fee. Licenses may be renewed up to 30 days after the  
6 date of expiration, upon payment of a late fee of  
7 \$10, in addition to the renewal fee. Any person who  
8 submits an application for renewal more than 30 days  
9 after the license renewal date is subject to all re-  
10 quirements governing new applicants under this chap-  
11 ter, except that the board may in its discretion,  
12 giving due consideration to the protection of the  
13 public, waive examination if that renewal application  
14 is made within 2 years from the date of that expira-  
15 tion.

16           2. Inactive status. Upon request, the board  
17 shall grant inactive status to a licensee who does  
18 not practice or present himself as a building con-  
19 tractor and maintains any continuing competency re-  
20 quirements established by the board.

21           3. Continued competency. Each license renewal  
22 shall be accompanied with evidence of continuing  
23 competencies. For the purpose of this subsection,  
24 continued competency means that no complaints have  
25 been filed against the licensee during the period  
26 from the most recent license renewal or grant of the  
27 license and the current request for a license renew-  
28 al.

29           §10811. Persons and practices exempt

30           Nothing in this chapter may be construed as pre-  
31 venting or restricting the practice, services or ac-  
32 tivities of:

33           1. Licensed persons. Any person licensed in this  
34 State by any other law from engaging in the profes-  
35 sion or occupation for which he is licensed;

36           2. Manufactured housing firms and mobile home  
37 manufacturers and dealers. Manufactured housing firms  
38 and mobile home manufacturers and dealers pursuant to  
39 Title 10, chapter 951;

1           3. Materials, firms, manufactures or retailers  
2 and furnished products. Any materialman, manufacturer  
3 or retailer furnishing finished products, materials  
4 or articles of merchandise who does not install or  
5 attach those items. Any retailer not required to be  
6 licensed under this subsection who enters into a  
7 sales contract or transaction involving the installa-  
8 tion or attachment of those items to a residential  
9 structure shall, in carrying out the terms of the  
10 sale contract or transaction, work only with licensed  
11 contractors or a person otherwise exempted from li-  
12 ensing and shall inform the purchaser that the in-  
13 stallation may be performed by a subcontractor whose  
14 name and address the purchaser may request;

15           4. Homeowners. Owners of residential property  
16 who engage in residential building construction ac-  
17 tivity on their own property and who do the work  
18 themselves or jointly with duly licensed contractors  
19 or persons otherwise exempted from licensing, if the  
20 structure or group of structures, including the im-  
21 provements to the structure or structures, is not in-  
22 tended for sale or for rent. In all actions brought  
23 under this chapter, proof of the sale or offering for  
24 sale of any such structure or proof of the rent or  
25 offering for rent of any such structure by the  
26 owner-builder within one year after completion of the  
27 structure is prima facie evidence that the structure  
28 was undertaken for the purpose of sale or rent. As  
29 used in this subsection, "sale" includes any arrange-  
30 ment between 2 or more persons as a result of which  
31 there is an agreement to transfer property for a con-  
32 sideration. As used in this subsection, "rent" in-  
33 cludes any arrangement whereby the owner receives  
34 compensation in money, provisions, chattels or labor  
35 from the occupancy of his land or the residential  
36 structures on his land;

37           5. Property owners contracting with licensed  
38 contractors. Owners of property who build or improve  
39 residential structures or appurtenances to residen-  
40 tial structures on their property and who contract  
41 for such a project with a contractor or contractors  
42 licensed pursuant to this chapter;

43           6. Architects or engineers engaged in their pro-  
44 fession. Architects or engineers engaging in their

1 professional practice as defined in chapter 1-A, provided  
2 they do not engage in the activity of a contractor  
3 as defined in section 10801;

4 7. Installation for nonpermanent fixtures. The  
5 sale or installation of finished products, materials  
6 or articles of merchandise which are not fabricated  
7 into and do not become a permanent fixed part of the  
8 structure. This exemption does not apply if removal  
9 of the finished product, material or article of mer-  
10 chandise causes damage to the structure or renders  
11 the structure unfit for its intended use;

12 8. Owner repairs. Owners or their salaried em-  
13 ployees repairing or maintaining structures owned by  
14 them;

15 9. Wage employees. Any person who engaged in the  
16 activities regulated by this chapter, as an employee  
17 with wages as his sole compensation;

18 10. Surety companies. A surety company or compa-  
19 nies authorized to transact business in this State  
20 which undertake to complete a contract on which they  
21 issued a performance or completion bond, provided  
22 that all construction work is performed by duly li-  
23 icensed contractors;

24 11. Insurance companies. Insurance companies au-  
25 thorized to transact business in this State which un-  
26 dertake to perform repairs resulting from casualty  
27 losses pursuant to the provisions of a policy, pro-  
28 vided that all construction work is performed by duly  
29 licensed contractors; or

30 12. Limited cost projects. Any person other than  
31 a licensed contractor engaging in any work or opera-  
32 tion on one undertaking or project by one or more  
33 contracts for which the aggregate contract price, in-  
34 cluding labor, materials and all other items, is less  
35 than \$500 or any work that requires a local building  
36 permit or whichever is less. The work or operations  
37 which are exempt under this subsection shall be of a  
38 casual or minor nature. This exemption does not ap-  
39 ply:

40 A. In any case in which the performance of the  
41 work requires a local building permit;

1           B. In any case in which the work or construction  
2           is only a part of a larger or major operation,  
3           whether undertaken by the same or a different  
4           contractor, or in which a division of the operation  
5           is made in contracts of amounts less than  
6           \$500 for the purpose of evasion of this chapter  
7           or otherwise; or

8           C. To a person who utilizes any form of adver-  
9           tising to the public in which his unlicensed statu-  
10           s is not disclosed by including the word "unli-  
11           icensed" in the advertisement.

12    §10812. Previous experience and knowledge

13           The board may waive, until January 1, 1987, any  
14           examination requirements for a license under this  
15           chapter, if the applicant has knowledge and experi-  
16           ence in building construction that meets the stan-  
17           dards of this chapter to the satisfaction of the  
18           board.

19    §10813. Reciprocity

20           A person who is a resident of this State and has  
21           been licensed in another state as a building contrac-  
22           tor and who demonstrates, to the satisfaction of the  
23           board, sufficient knowledge of and skill with the  
24           Statewide Building Code as defined in Title 30, chap-  
25           ter 236, upon payment of a fee as established under  
26           section 10808, may obtain a license as a building  
27           contractor.

28    §10814. License requirements for persons now engaged  
29           in building construction activity

30           1. Registration. Any person working as a build-  
31           ing contractor as of the effective date of this chap-  
32           ter shall register with the board and shall provide  
33           the board with the information that the board deems  
34           necessary for the determination of the building con-  
35           tractor's qualification.

36           2. Issuance of license. If the board finds, to  
37           its satisfaction, that the building contractor appli-  
38           cant, as of the effective date of this chapter, has  
39           engaged in building construction activity for the

1 past 2 years and is a person who has a history of  
2 good business and personal ethics, the board shall  
3 issue a license to the contractor.

4 3. Temporary license. If the board finds that a  
5 person working as a building contractor as of the ef-  
6 fective date of this chapter does not meet the re-  
7 quirements in subsection 2, the board shall issue the  
8 building contractor a temporary license effective for  
9 12 months from the date of issue, after which time  
10 the contractor shall be required to meet the provi-  
11 sions in section 10806.

12 §10815. Investigations; refusal of license or renew-  
13 al; disciplinary action

14 1. Complaints; investigations. The board shall  
15 investigate or cause to be investigated a complaint  
16 made on its own motion or on written complaint filed  
17 with the board and all cases of noncompliance with or  
18 violation of this chapter or of any rules adopted by  
19 the board.

20 2. Disciplinary action; grounds. The board may  
21 suspend or revoke a license pursuant to Title 5, sec-  
22 tion 10803. The board may refuse to issue or renew a  
23 license or the Administrative Court may suspend, re-  
24 voke or refuse to renew a license of any licensed  
25 person. The following shall be grounds for an action  
26 to modify, suspend, revoke or refuse to issue or re-  
27 new a license:

28 A. The practice of any fraud or deceit in ob-  
29 taining a license under this chapter or in con-  
30 nection with service rendered within the scope of  
31 the license issued;

32 B. Unprofessional conduct, including any gross  
33 negligence, incompetency or misconduct in the  
34 licensee's performance of the work of building  
35 construction or violation of any standard of pro-  
36 fessional behavior which has been established by  
37 the board;

38 C. Construction, alteration, improvements or any  
39 other building construction activity that fails  
40 to meet the minimum building code;

1           D. Subject to the limitation of Title 5, chapter  
2           341, conviction of a crime which involves dishon-  
3           esty or false statement or which relates directly  
4           to the practice for which the licensee is li-  
5           icensed or conviction of any crime for which im-  
6           prisonment for one year or more may be imposed;  
7           or

8           E. Any violation of this chapter or any rule  
9           adopted by the board.

10           3. Criminal penalty. Any person who violates a  
11           provision of this chapter or any lawful order or rule  
12           adopted by the board is guilty of a Class E crime.

13           4. Injunction. The State may bring an action in  
14           Superior Court to enjoin any person from violating  
15           this chapter, regardless of whether proceedings have  
16           been or may be instituted in the Administrative Court  
17           or whether criminal proceedings have been or may be  
18           instituted.

19           5. Application for reinstatement. An application  
20           for reinstatement may be made to the board one year  
21           from the date of revocation of a license. The board  
22           may accept or reject the application and hold a hear-  
23           ing to consider the reinstatement.

24           Sec. 4. Effective date. Sections 1 and 3 of this  
25           Act shall take effect 90 days after adjournment of  
26           the Legislature. Section 2 of this Act shall take ef-  
27           fect January 1, 1987.

1

STATEMENT OF FACT

2           This bill establishes the Statewide Building Code  
3 and a building contractors' licensing board as the  
4 means to assure the State's citizens and other per-  
5 sons, including businessmen, labor, etc., that new  
6 construction in the State meets basic building stan-  
7 dards that are safe and healthy. The lack of a state-  
8 wide building code creates a multitude of building  
9 standards and codes that are not uniform. In addi-  
10 tion, many of the codes do not adequately protect the  
11 health and safety of the State's citizens. A number  
12 of municipalities do not have any building codes  
13 whatsoever which allow any type of structure to be  
14 erected.

15           The Statewide Building Code, which applies to all  
16 new construction, consists of the Building Officials  
17 Code and Administrators International, the Council of  
18 American Building Officials Code for townhouses and  
19 one-family and 2-family residences and the National  
20 Fire Protection Association Code. The code will take  
21 effect on January 1, 1987.

22           For municipalities with no building inspectors or  
23 with officials who are not familiar with the Building  
24 Officials Code and Administrators International, the  
25 Council of American Building Officials Code and the  
26 National Fire Protection Association Code, the indi-  
27 vidual or firm which has contracted for the construc-  
28 tion is responsible for obtaining certification from  
29 a registered architect, engineer or building contrac-  
30 tor that the proposed project meets the Statewide  
31 Building Code for which a building permit is issued.  
32 Following receipt of a building permit, the archi-  
33 tect, engineer or building contractor will inspect  
34 the building during various phases of construction  
35 and will certify whether the building, upon comple-  
36 tion, meets the statewide standard.

37           In municipalities which have a building inspector  
38 who is knowledgeable about the codes, the building  
39 will be subject to inspection by the building inspec-  
40 tor.



1       The bill also establishes a 7-member Board of  
2 Building Contractors, appointed by the Governor, to  
3 license building contractors. The board consists of 2  
4 residential contractors, one commercial or industrial  
5 contractor, one registered architect, one registered  
6 engineer, the State Fire Marshal and a public member  
7 who will serve 3-year terms with the exception of the  
8 State Fire Marshal and the initial members of the  
9 board.

10       The board may examine applicants to determine the  
11 knowledge and experience in building construction and  
12 the Statewide Building Code. For persons engaged in  
13 building construction currently, the board may pro-  
14 vide a license to these contractors without an exami-  
15 nation if they can show, to the satisfaction of the  
16 board, that they have building construction experi-  
17 ence and are knowledgeable of the Statewide Building  
18 Code.

19       The board may issue an individual license or a  
20 business enterprise license to an applicant. A busi-  
21 ness enterprise license may certify that the owner or  
22 owners of the business are not licensed building con-  
23 tractors but employ, to the satisfaction of the  
24 board, a sufficient number of licensed building con-  
25 tractors to inspect and supervise all the building  
26 construction projects of the firm. For a business en-  
27 terprise engaged in building construction and owned  
28 by persons experienced in building construction, a  
29 business enterprise or an individual license shall  
30 satisfy the requirements of the licensing chapter.  
31 Two licenses are not required.

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