

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1342

H.P. 996 House of Representatives, April 23, 1987  
Reference to the Committee on Business Legislation  
suggested and ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative RACINE of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT Concerning the Construction of Public  
Assembly Buildings.

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

25 MRSA Pt. 10 is enacted to read:

PART 10

STATEWIDE BUILDING CODE

CHAPTER 411

ESTABLISHMENT

§4001. Definitions

1        As used in this Part, unless the context other-  
2 wise indicates, the following terms have the follow-  
3 ing meanings.

4        1. Building. "Building" means any combination  
5 of materials, whether portable or fixed, which com-  
6 prises a structure affording facilities or shelter  
7 for any use or occupancy, including attachments to  
8 the building such as signs, marquees and canopies.  
9 "Building" does not mean manufactured housing or mo-  
10 bile homes certified pursuant to the industrialized  
11 housing laws of the State.

12        2. Code. "Code" means the 1987 edition of the  
13 National Building Code of the Building Officials and  
14 Code Administrators International.

15        3. Construction or constructed. "Construction"  
16 or "constructed" means the erection, reconstruction,  
17 demolition, alteration, conversion, repair, moving  
18 and equipping of buildings.

19        4. Department. "Department" means the Depart-  
20 ment of Public Safety.

21        5. Enforcement agency. "Enforcement agency"  
22 means the agent, agency or agencies of state or local  
23 government qualified by the department with authority  
24 to make inspections of buildings and to enforce the  
25 laws, ordinances and rules enacted by the state and  
26 local governments which establish standards and re-  
27 quirements applicable to the construction, altera-  
28 tion, repair or demolition of buildings.

29        6. Issuing agency. "Issuing agency" means the  
30 local or state agency with authority to issue a spe-  
31 cific permit or certificate under this Part.

32        7. Local building official or inspector. "Local  
33 building official or inspector" means an individual  
34 registered by the department as being qualified to  
35 make inspections and appointed by a local government  
36 to carry out and enforce the provisions of the State-  
37 wide Building Code established by this chapter.

38        8. Local Government. "Local Government" means  
39 any county, city, municipal corporation, town or oth-

1 er political subdivision of this State with authority  
2 to establish standards and requirements applicable to  
3 the construction, alteration, repair or demolition of  
4 buildings.

5 9. Public assembly buildings. "Public assembly  
6 buildings" means buildings which include, but are not  
7 limited to, all buildings or portions of buildings  
8 used for gathering 50 or more persons for purposes  
9 including, but not limited to, deliberation, worship,  
10 entertainment, eating, drinking, amusement or await-  
11 ing transportation.

12 §4002. Statewide building code

13 1. Code established. The code, including all  
14 amendments and supplements through 1987, but not in-  
15 cluding references and citations in the code, is es-  
16 tablished as the building code for all public assem-  
17 bley building construction throughout the State, in-  
18 cluding all local governments and unorganized places.

19 2. Effective date of code. The effective date  
20 of the code, as distinguished from the effective date  
21 of this Part, is June 30, 1988.

22 §4003. Exemption from this chapter

23 Any buildings subject to Title 5, section 1742,  
24 subsection 6-A, are exempt from conformity to the  
25 code. They may be inspected and certificates of oc-  
26 cupancy issued under this Part based on the codes  
27 specified for their construction as provided in Title  
28 5, section 1742.

29 §4004. Amendments

30 1. Department of Public Safety. The Department  
31 of Public Safety may adopt, amend or repeal provi-  
32 sions of the building code by rule in accordance with  
33 the Maine Administrative Procedure Act, Title 5,  
34 chapter 375, when those changes will permit the use  
35 of new and improved technology, techniques, methods  
36 and materials, when consistent with the principles of  
37 the code.

1           2. Local governments. Local governments may  
2 amend, by ordinance, the statewide building code if  
3 the effect of that amendment is not less restrictive  
4 than the code and if it offers at least equal quali-  
5 ty, strength, effectiveness, fire resistance, dura-  
6 bility and safety as the code. All proposed amend-  
7 ments shall be submitted to the department which  
8 shall review them solely on the basis of their con-  
9 formity with this subsection. Those amendments may  
10 be adopted upon approval of the department or 30 days  
11 after submission to the department, whichever is  
12 sooner.

13 §4005. Conflict with other laws, rules and codes

14           Building rules adopted pursuant to any Act of  
15 this State shall continue in effect until changed.  
16 If any rules are determined by any rule-making body  
17 or department to be inconsistent with the code, the  
18 code shall govern. It is the intent of the Legisla-  
19 ture that the code shall supersede other rules. Con-  
20 licts shall be resolved expeditiously so that con-  
21 struction is not delayed. Nothing contained in this  
22 chapter may be construed to limit in any way the re-  
23 quirement that all installations of electrical equip-  
24 ment shall comply with the current edition of the  
25 code of the National Fire Protection Association and  
26 the applicable orders and rules of the Electricians'  
27 Examining Board nor to limit in any way the rights  
28 and duties of state electrical inspectors as set  
29 forth in Title 32, chapter 17; or the requirement  
30 that all installations of plumbing fixtures shall  
31 comply with regulations of the United States Depart-  
32 ment of Health and Welfare as set forth in the cur-  
33 rent edition of the State of Maine Plumbing Code, as  
34 promulgated by Title 22, section 42; or the require-  
35 ment that the installation of oil burners shall com-  
36 ply with the rules and standards adopted by the Oil  
37 and Solid Fuel Board.

38           In any conflict between this Part and the code,  
39 this Part shall govern.

40 §4006. Effects of statewide building code on local  
41 building codes



1 B. An individual may apply directly to the de-  
2 partment for a certificate of registration. He  
3 shall accompany the application with a fee of  
4 \$15. The department shall record his name in its  
5 records and send him a certificate of registra-  
6 tion which shall continue in force for a period  
7 of 3 years upon the determination that he meets  
8 its qualifications for the position.

9 C. Division to keep certain records. The de-  
10 partment shall keep a record of the names and ad-  
11 resses of all registered local building offi-  
12 cial and such additional personal data as the  
13 department may require. The department annually  
14 shall publish or see that there is published a  
15 list of all currently registered local building  
16 inspectors;

17 2. Exercise authority at request of municipal  
18 officers. Upon the approval of a majority of the mu-  
19 nicipal officers, exercise authority with respect to:

20 A. The construction of all buildings and inspec-  
21 tion of buildings for compliance with the code;

22 B. The issuance and revocation of permits or li-  
23 censes for buildings; or

24 C. The use or occupancy of buildings;

25 3. Enforce this chapter. Exercise the proce-  
26 dures of section 4015, subsection 6, to enforce this  
27 chapter;

28 4. Hold hearings. Hold hearings with respect to  
29 the administration and enforcement of this Part;

30 5. Adopt rules. Adopt rules in accordance with  
31 the Maine Administrative Procedure Act, Title 5,  
32 chapter 375, to implement this chapter;

33 6. Charge and collect fees. Charge and collect  
34 fees for the duties and services that the department  
35 performs under this chapter.

36 A. Any funds received by the department in the  
37 administration and enforcement of this Part and

1 the code shall be maintained in a special fund  
2 available to the department for carrying out the  
3 purposes of this Part.

4 B. At the beginning of each year, the department  
5 shall publish a minimum charge per square foot  
6 that shall pertain to all permit fees to be  
7 charged by any permitting agency and shall pub-  
8 lish department fees for issuing permits during  
9 the next year; and

10 7. Seek advice. Seek the advice and recommenda-  
11 tions on all matters in this chapter from the Maine  
12 Building Officials and Inspectors Association or any  
13 similar organizations that may exist at the time.

14 CHAPTER 415

15 ENFORCEMENT

16 §4021. Building permits and certificates of occupan-  
17 cy

18 1. Permits. The requirements for building per-  
19 mits and the conditions of their issuance shall be as  
20 described in the following paragraphs.

21 A. Except as otherwise provided in this code,  
22 the construction of a building shall not begin  
23 until a building permit is issued. A building  
24 permit shall be issued if, upon submission of an  
25 application to an enforcement agency, the build-  
26 ing proposed to be erected, in the opinion of a  
27 registered inspector, complies with this Part,  
28 the code and all other applicable laws, ordi-  
29 nances or regulations. The enforcement agency  
30 may suspend or revoke a building permit if the  
31 building under construction pursuant to the per-  
32 mit does not comply with this Part or the code.

33 B. If a local government or unorganized place  
34 does not have a registered inspector, the local  
35 government shall forward the application to the  
36 Department of Public Safety which shall issue the  
37 permit if the building complies with this Part.  
38 The applicant shall be charged the fee determined  
39 by the department to cover its costs of issuance,  
40 inspection and certification.



1           C. The agency certifying compliance to the code  
2 pursuant to paragraph A shall periodically inspect  
3 all construction undertaken pursuant to  
4 building permits issued for projects approved for  
5 construction to assure compliance with this Part  
6 and the code. The owner of a building under con-  
7 struction is considered to have consented to in-  
8 spection by a registered agent pursuant to para-  
9 graph A, by applying for a building permit or re-  
10 questing a certificate of occupancy. An inspec-  
11 tion may be made of any building at any time if a  
12 registered local enforcement agency has probable  
13 cause to believe that a condition hazardous to  
14 life or property exists. If a building is found  
15 not to comply with the code, the enforcement  
16 agency shall notify the person named in the per-  
17 mit, in writing, to bring the building into com-  
18 pliance with the code or to secure it from entry,  
19 or both.

20           2. Certificates of occupancy. No building of  
21 public assembly constructed after the effective date  
22 of the code may be used or occupied until a certifi-  
23 cate of occupancy has been issued by a registered in-  
24 pector. Applications for those certificates shall  
25 be submitted, in writing, to the local enforcement  
26 agency pursuant to the code. The certificate shall  
27 be issued if a registered inspector determines that  
28 the building to which the application pertains has  
29 been constructed in accordance with the building per-  
30 mit, the code and other applicable laws and ordi-  
31 nances.

32           3. Building inspector qualifications. To be el-  
33 igible for appointment under this Part, a building  
34 inspector shall have had at least 5 years of building  
35 experience as a licensed professional engineer or ar-  
36 chitect, building inspector, contractor or superin-  
37 tendent of building construction. For 3 years of  
38 this experience, the building inspector shall have  
39 worked at a supervisory level. The requirements  
40 shall be waived for an individual to approve plans if  
41 he has been certified by the code as a plans inspec-  
42 tor and shall be waived for an individual to inspect  
43 buildings if he has been certified by the code as a  
44 building inspector.

1           4. Fees. Fees shall be assessed for permits and  
2 certificates according to the following paragraphs.

3           A. At the beginning of each year, each local  
4 government shall prescribe by ordinance a sched-  
5 ule of fees for permits for construction of  
6 buildings. The fee schedule for construction  
7 shall be based on the square footage as deter-  
8 mined by external dimensions of the structure  
9 times the number of stories such as 1, 1 1/2 or  
10 2. A minimum charge per square foot shall be es-  
11 tablished by the department for all enforcement  
12 agencies. All fees shall be sufficient to cover  
13 all costs of permits, inspecting and issuing cer-  
14 tificates of occupancy as determined by the issu-  
15 ing agency.

16           B. In order to support the administration of  
17 this Part and the code, local governments with a  
18 registered local building inspector shall retain  
19 100% of all fees received under the code and lo-  
20 cal governments without a registered local build-  
21 ing official shall pay to the department 100% of  
22 all fees received under the code. All the fees  
23 shall be submitted to the department at least  
24 quarterly. A local government which pays 100% of  
25 its fees to the department in accordance with  
26 this paragraph shall receive actual inspection  
27 services from the department to the extent re-  
28 quired.

29           C. Any funds received by the department in the  
30 administration and enforcement of this chapter  
31 and the code shall be maintained in a special  
32 fund available to the department for carrying out  
33 the purposes of this chapter.

34           5. Appeals. Any person shall have the right to  
35 appeal to the enforcement agency employing the offi-  
36 cial, a decision of a code official who has refused  
37 to grant a modification to the provisions of this  
38 code covering the manner of construction or materials  
39 to be used in the construction of a building. An ap-  
40 plication for appeal shall be based on a claim that  
41 this code, or the rules legally adopted, has been in-  
42 correctly applied, the provisions of this code do not  
43 fully apply or an equivalent form of construction can  
44 be used.

1 If the decision is in favor of the enforcement agen-  
2 cy, all costs of an appeal including, but not limited  
3 to, attorneys fees and court costs shall be paid by  
4 the person bringing the appeal.

5 Any person may seek a court review of an agency's de-  
6 cision in the manner provided in the rules of the  
7 courts of the State.

8 The state or local government operating under this  
9 Part shall appoint a board of appeals consisting of 5  
10 members. Each member shall be a licensed profession-  
11 al engineer, a licensed professional architect or a  
12 builder or superintendent of building construction.

13 6. Violations. The following actions shall be  
14 in conjunction with a violation of the code.

15 A. Any person who has violated this Part or the  
16 code may be assessed a penalty of not less than  
17 \$100 and not more than \$2,000 a violation, pay-  
18 able to the enforcement agency for use in admin-  
19 istering this Part.

20 B. A separate violation is deemed to have oc-  
21 curred with respect to each building not in com-  
22 pliance. Each day the violation continues con-  
23 stitutes a separate violation.

24 C. The enforcement agency may obtain injunctive  
25 relief from any court of competent jurisdiction  
26 to enjoin the sale, delivery, use, occupation,  
27 construction or installation of any building cov-  
28 ered by this chapter upon an affidavit by the  
29 agency specifying the manner in which the build-  
30 ing does not conform to the requirements of this  
31 chapter or the code.

32 D. The enforcement agency shall inform the ap-  
33 propriate occupational or professional licensing  
34 board, as defined in Title 5, section 12004, sub-  
35 section 1, of any violation of this chapter.

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STATEMENT OF FACT

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This bill assures the safety of those attending events in public buildings through laws which regulate the construction of the buildings.

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This bill sets up a statewide building code for buildings used for public assembly based on the code of the Building Officials and Code Administrators International, Inc. It requires that all such buildings have their plans and final construction approved as meeting the requirements of this code. It requires that the Department of Public Safety register building inspectors as based on certain standards of experience or their certification by the code. The person doing the issuance may be in the employ of the local government, if that body so desires, and if not, he will be employed by the department.

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Each year the local government and the department are to set fees for the permitting procedure that will cover all costs. The local government is to collect these fees and transmit to the department those fees due to it.

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This bill will require additional personnel in the Department of Public Safety. The cost per inspector is \$26,700 a year. The number of inspectors needed can not be determined since it is not known how many municipalities will employ their own inspectors.

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