

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

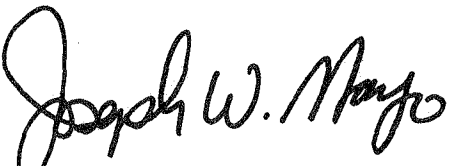
No. 1554

H.P. 1111

House of Representatives, March 18, 1997

**An Act to Eliminate Inconsistencies and Unnecessary Duplication
Regarding the Training and Certification of Individuals Who Enforce
Land Use Regulations.**

Submitted by the State Planning Office pursuant to Joint Rule 204.
Reference to the Committee on Agriculture, Conservation and Forestry suggested and
ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.
Cosponsored by Representatives: CARLETON of Wells, COWGER of Hallowell, JONES of
Greenville, Senator: SMALL of Sagadahoc.

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

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Sec. 1. 4 MRSA §807, sub-§3, ¶D, as repealed and replaced by PL 1989, c. 755, is amended to read:

D. A person who is not an attorney, but is representing a municipality under:

- (1) Title 30-A, section 2671, subsection 3;
- ~~(2) Title 30-A, section 4221, subsection 2;~~
- (3) Title 30-A, section 4452, subsection 1; or
- (4) Title 38, section 441, subsection 2;

Sec. 2. 12 MRSA §685-C, sub-§9, as enacted by PL 1991, c. 688, §1, is amended to read:

9. Representation in court. The commission may authorize certified employees of the commission to serve civil process and represent the commission in District Court in the prosecution of violations of those laws enforced by the commission and set forth in Title 4, section 152, subsection 6-A. Certification of these employees must be as provided under Title 30-A, section 4221, ~~subsection 2, paragraph A~~ 4451, subsection 5.

Sec. 3. 30-A MRSA §4221, sub-§1, as amended by PL 1989, c. 104, Pt. A, §44 and Pt. C, §§8 and 10, is further amended to read:

1. Appointment; compensation; removal. In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors ~~shall be~~ are appointed for a term of one year or more and ~~shall~~ must be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and the State Planning Office of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors ~~shall be~~ is determined by the municipal officers and ~~shall be~~ paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

Sec. 4. 30-A MRSA §4221, sub-§2, as amended by PL 1991, c. 688, §2, is repealed and the following enacted in its place:

2 2. Certification requirements. A person may not hold the
3 office of plumbing inspector unless currently certified as
4 qualified by the State Planning Office pursuant to section 4451.
5 Certification is effective for a period of 5 years unless sooner
6 revoked or suspended by the Administrative Court as provided for
7 in section 4451.

8 **Sec. 5. 30-A MRSA §4451, sub-§1, ¶A,** as enacted by PL 1989, c.
9 104, Pt. A, §45 and Pt. C, §10, is amended to read:

10 A. An individual has 12 months after beginning employment
11 to be trained and certified as provided in this section,
12 except that, in the case of an individual employed in the
13 area of subsurface wastewater disposal or internal plumbing,
14 the individual must be approved by the Department of Human
15 Services, Division of Health Engineering; and

16 **Sec. 6. 30-A MRSA §4451, sub-§§3 and 5,** as amended by PL 1991,
17 c. 163, are further amended to read:

18 **3. Training and certification of code enforcement**
19 **officers.** In cooperation with the Maine Technical College
20 System, the Department of Environmental Protection and the
21 Department of Human Services, the office shall establish a
22 continuing education program for individuals engaged in code
23 enforcement. This program must provide basic and advanced
24 training in the technical and legal aspects of code enforcement
25 necessary for certification. The office may charge a fee to
26 cover the costs of testing and training development and delivery
27 to individuals seeking training or certification.

28 **5. Certification standards.** The office shall establish by
29 rule the qualifications, conditions and licensing standards and
30 procedures for the certification and recertification of
31 individuals as code enforcement officers. A code enforcement
32 officer need only be certified in the areas of actual job
33 responsibilities. The rules established under this subsection
34 must identify standards for each of the areas of training under
35 subsection 2-A, in addition to general standards that apply to
36 all code enforcement officers. The office shall also establish
37 certification standards and a program to certify familiarity with
38 court procedures for:

39 A. Code enforcement officers as set forth in this section
40 and section 4452 and Title 38, section 441;

41 B. Plumbing inspectors appointed under section 4221;

42 C. Department of Environmental Protection employees, as set
43 forth in Title 38, section 342, subsection 7; and

44 D. Maine Land Use Regulation Commission employees as set
45 forth in Title 12, section 685-C, subsection 9.

2 **Sec. 7. 30-A MRSA §4452, sub-§7**, as amended by PL 1995, c.
704, Pt. B, §1 and affected by Pt. C, §2, is further amended to
4 read:

6 **7. Natural resources protection laws.** A code enforcement
officer, authorized by a municipality to represent that
8 municipality in District Court and certified by the State
Planning Office under section 422~~1~~ 4451 as familiar with court
10 procedures, may enforce the provisions of the natural resources
protection laws, Title 38, chapter 3, subchapter I, article 5-A
12 and Title 38, section 420-C, by instituting injunctive
proceedings or by seeking civil penalties in accordance with
14 Title 38, section 349, subsection 2.

16 **Sec. 8. 38 MRSA §342, sub-§7**, as corrected by RR 1993, c. 2,
§37, is amended to read:

18 **7. Representation in court.** The commissioner may authorize
20 certified employees of the department to serve civil process and
represent the department in District Court in the prosecution of
22 violations of those laws enforced by the department and set forth
in Title 4, section 152, subsection 6. Certification of these
24 employees ~~shall~~ must be provided as under Title 30-A, section
422~~1~~, ~~subsectien-2~~ 4451, subsection 5.

26 **Sec. 9. 38 MRSA §441, sub-§2**, as amended by PL 1989, c. 104,
28 Pt. C, §§8 and 10, is further amended to read:

30 **2. Certification; authorization by municipal officers.** No
person may serve as a code enforcement officer who is authorized
32 by the municipal officers to represent the municipality in
District Court unless he that person is currently certified under
34 Title 30-A, section 422~~1~~, ~~subsectien-2~~ 4451, subsection 5, as
being familiar with court procedures.

36 Upon written authorization by the municipal officers, a certified
38 code enforcement officer may serve civil process on persons whom
he that officer determines to be in violation of ordinances
40 adopted pursuant to this chapter and, if authorized by the
municipal officers, may represent the municipality in District
42 Court in the prosecution of violations of ordinances adopted
pursuant to this chapter.

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SUMMARY

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48 This bill eliminates inconsistencies and unnecessary
duplication between the Department of Human Services and the
50 State Planning Office by consolidating at the State Planning
Office responsibility to train and certify local plumbing
52 inspectors and to certify individuals to enforce land use laws

2 under the Maine Rules of Civil Procedure, Rule 80-K. This bill also authorizes the State Planning Office to charge fees necessary to cover the costs of testing and training.