

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2179

S.P. 841

January 31, 2008

An Act To Promote Residential and Commercial Energy Conservation

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.

Cosponsored by Representative HINCK of Portland and Senators: BROMLEY of Cumberland, DOW of Lincoln, TURNER of Cumberland, Representatives: BERRY of Bowdoinham, BLISS of South Portland, PINGREE of North Haven, RECTOR of Thomaston, SMITH of Monmouth.

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

2 **Sec. 1. 10 MRSA §1415-C, sub-§3**, as amended by PL 2005, c. 350, §7 and
3 affected by §16, is further amended to read:

4 **3. Residential buildings.** Effective January 1, ~~2006~~ 2010, any new construction,
5 remodeling or substantial renovation of a conditioned space in a residential building must
6 conform to the model building energy code adopted by the Public Utilities Commission
7 under Title 35-A, section 121. Any new construction or renovation of a conditioned
8 space in any residential building of more than 2 dwelling units for which a permit was
9 issued on or after January 1, 2006 but before January 1, 2009 must conform to:

10 A. Chapter 11 of the International Residential Code for One- and Two-Family
11 Dwellings adopted by the International Code Council in 2003 or the 2003 edition of
12 the International Energy Conservation Code published by the International Code
13 Council; and

14 B. The standards adopted by ASHRAE in 2003 for ventilation practices in
15 residential low-rise building construction entitled "Ventilation and Acceptable Indoor
16 Air Quality in Low-Rise Residential Buildings," commonly referred to as ASHRAE
17 62.2-2003.

18 **Sec. 2. 10 MRSA §9707** is enacted to read:

19 **§9707. Effect on building energy codes, energy inspections and energy code**
20 **inspectors**

21 Except for the provisions of section 9703, the provisions of this chapter have no
22 effect on the application of the model building energy code adopted by the Public
23 Utilities Commission under Title 35-A, section 121 and the certification, training and
24 conduct of energy code inspectors as certified under Title 30-A, section 4451.

25 **Sec. 3. 30-A MRSA c. 185, sub-c. 4** is enacted to read:

26 **SUBCHAPTER 4**

27 **REGULATION AND INSPECTION OF BUILDING ENERGY**
28 **STANDARDS**

29 **§4224. Compliance and consumer protection**

30 **1. Plan required.** Effective January 1, 2009, an application for a building permit for
31 construction of a commercial building subject to the provisions of Title 10, section 1415-
32 D must include plans and specifications showing all pertinent data and features of the
33 building's envelope, mechanical equipment, lighting equipment and motors. The plan
34 must be signed or stamped by an energy code inspector. An energy code inspector may
35 sign or stamp a plan only when there is sufficient detail to determine whether the plan as
36 designed will comply with the model building energy code adopted by the Public Utilities
37 Commission under Title 35-A, section 121. The energy code inspector may require that

1 sufficient evidence be submitted to substantiate claims made regarding performance
2 capabilities. Effective January 1, 2010, the provisions of this subsection apply to all
3 applications for building permits for construction of residential buildings subject to the
4 provisions of Title 10, section 1415-C.

5 **2. Certificate required.** When construction or installation of a building or building
6 equipment or systems subject to the plan required under subsection 1 is completed, the
7 person responsible for the construction or installation shall notify the energy code
8 inspector. The energy code inspector shall inspect the work within a reasonable time. If
9 the energy code inspector finds that the construction or installation complies with the
10 model building energy code adopted by the Public Utilities Commission under Title 35-
11 A, section 121, the inspector shall issue a certificate of compliance with the model
12 building energy code to the person constructing the building or making the installation.
13 The certificate must contain a representation of the energy performance of the building or
14 systems. The developer or the building owner or owner's agent shall provide a copy of
15 the signed certificate to the municipal building permit enforcement office.

16 **3. Disclosure of building energy inspection; performance.** The provisions of this
17 subsection apply to sales of residential and commercial buildings.

18 A. A person offering for sale a residential or commercial building, the construction,
19 renovation or remodeling of which is subject to the provisions of Title 10, section
20 1415-C or 1415-D, respectively, shall supply to a prospective buyer a copy of the
21 certificate of compliance required by subsection 2 together with other required real
22 estate disclosure information. The certificate of compliance must be recorded at the
23 registry of deeds at the time of the sale.

24 B. Upon the first closing on a residential or commercial building occurring after
25 January 1, 2010, the seller must receive a credit against the seller's transfer tax
26 obligation pursuant to Title 36, section 4641-A in an amount equal to the cost of any
27 eligible energy audit performed on the property and reported, in summary form, to
28 prospective buyers together with other required real estate disclosure information
29 prior to the purchase and sale agreement. The energy audit must have been paid for
30 by the seller and performed by an energy auditor certified by the State Planning
31 Office or the Public Utilities Commission or under a program of the United States
32 Environmental Protection Agency that sets guidelines for qualifying homes as energy
33 efficient and must identify specific cost-effective options for improvement of the
34 building or make a finding that the building's energy performance is calculated to be
35 at least 75% more energy efficient than the requirements of the model building
36 energy code adopted by the Public Utilities Commission under Title 35-A, section
37 121.

38 C. Upon a subsequent sale of a residential or commercial building after the
39 building's first sale under paragraph B, the seller shall supply to the buyer with other
40 required real estate disclosure information a summary of the building's energy
41 performance, including but not limited to any energy performance measured or
42 calculated by thermography or a home energy rating system established by the United
43 States Department of Energy, and the building's total consumption of electricity,
44 natural gas and home heating oil in the prior 24-month period.

1 **4. Energy code inspectors.** The provisions of this subsection apply to energy code
2 inspectors.

3 A. A person may not hold the office of energy code inspector or conduct energy code
4 inspections unless certified by the State Planning Office pursuant to section 4451.
5 Certification is effective for a period of 5 years unless sooner revoked or suspended
6 by the District Court as provided for in section 4451.

7 B. In every municipality the municipal officers may appoint one or more energy
8 code inspectors, who need not be residents of the municipality for which they are
9 appointed. Energy code inspectors may be appointed for a term of one year or more
10 and must be sworn, and the appointment must be recorded as provided in section
11 2526, subsection 9. An individual properly appointed as an energy code inspector
12 and satisfactorily performing the duties may continue in that capacity after the term
13 has expired until replaced. The municipal officers shall notify the State Planning
14 Office of the appointment of an energy code inspector in writing within 30 days of
15 the appointment. Compensation of an energy code inspector is determined by the
16 municipal officers and paid by the respective municipalities. The municipal officers
17 may remove an energy code inspector for cause after notice and hearing. If the
18 municipal officers do not appoint an energy code inspector, a developer or a building
19 owner or owner's agent must contract with a 3rd-party energy code inspector for
20 compensation to be determined between the contracting parties.

21 C. Energy code inspectors shall:

22 (1) Inspect all plans for construction and all construction and installation of new,
23 remodeled or substantially renovated buildings for which permits are granted to
24 ensure compliance with state rules and municipal ordinances and investigate all
25 construction or work covered by those rules and ordinances;

26 (2) Condemn and reject all work done or being done or material used or being
27 used that does not comply with state rules and municipal ordinances and order
28 changes necessary to obtain compliance;

29 (3) Sign or stamp plans having sufficient information to ensure that the plan will
30 comply with the model building energy code adopted by the Public Utilities
31 Commission under Title 35-A, section 121 and issue a certificate of approval for
32 any work that the inspector has approved;

33 (4) Keep an accurate account of all fees collected and, unless a 3rd-party energy
34 code inspector is employed, transfer those fees to the municipal treasurer;

35 (5) Keep a complete record of all transactions;

36 (6) Perform other duties as provided by municipal ordinance; and

37 (7) Investigate complaints of alleged violations relating to the model building
38 energy code and report findings to the municipal building permit enforcement
39 office.

40 **Sec. 4. 30-A MRSA §4451, sub-§1, ¶A,** as amended by PL 1997, c. 296, §5, is
41 further amended to read:

1 A. An individual other than an individual appointed as a plumbing inspector or
2 appointed or contracted as an energy code inspector has 12 months after beginning
3 employment to be trained and certified as provided in this section;

4 **Sec. 5. 30-A MRSA §4451, sub-§2-A**, as enacted by PL 1991, c. 163, is
5 amended to read:

6 **2-A. Code enforcement officer; definition and duties.** As used in this subchapter,
7 "code enforcement officer" means a person certified under this section ~~and~~ whether
8 employed by a municipality or the State or, in the case of the model building energy code
9 adopted by the Public Utilities Commission under Title 35-A, section 121, under a 3rd-
10 party contractual arrangement, to enforce all applicable laws and ordinances in the
11 following areas:

- 12 A. Shoreland zoning under Title 38, chapter 3, subchapter ~~I~~ 1, article 2-B;
- 13 B. Comprehensive planning and land use under Part 2, Subpart ~~VI-A~~ 6-A;
- 14 C. Internal plumbing under chapter 185, subchapter ~~III~~ 3;
- 15 D. Subsurface wastewater disposal under chapter 185, subchapter ~~III~~ 3; ~~and~~
- 16 E. Building standards under chapter 141; chapter 185, subchapter ~~I~~ 1; and Title 25,
17 chapters 313 and 331-; ~~and~~
- 18 F. Building energy codes under chapter 185, subchapter 4; Title 35-A, section 121;
19 and Title 10, sections 1415-C and 1415-D.

20 **Sec. 6. 30-A MRSA §4451, sub-§3**, as amended by PL 1997, c. 296, §7 and PL
21 2003, c. 689, Pt. B, §6, is further amended to read:

22 **3. Training and certification of code enforcement officers.** In cooperation with
23 the Maine Community College System, the Department of Environmental Protection ~~and~~
24 , the Department of Health and Human Services and state energy efficiency programs, the
25 office shall establish a continuing education program for individuals engaged in code
26 enforcement. This program must provide basic and advanced training in the technical
27 and legal aspects of code enforcement necessary for certification.

28 **Sec. 7. 35-A MRSA §121, sub-§1-A** is enacted to read:

29 **1-A. Additional and updated elements of the model rule.** No later than October
30 31, 2008, the commission shall adopt by rule any amendments to the model building
31 energy code necessary to incorporate codes and standards established in the most recent
32 edition of and supplements to the International Energy Conservation Code published by
33 the International Code Council at the time of approval of the rule and to update the code
34 where it references ASHRAE Standard 90.1 for commercial buildings to the most recent
35 published edition of ASHRAE Standard 90.1 at the time of approval of the rule. The
36 model code must be updated at least once every 3 years. Rules adopted pursuant to this
37 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

38 **Sec. 8. 35-A MRSA §121, sub-§2**, as amended by PL 2005, c. 350, §15, is
39 repealed and the following enacted in its place:

1 **2. Model code.** The model building energy code applies to new construction,
2 remodeling or renovation in the State and preempts other municipal building energy
3 codes except when the commission issues, by order, a finding that a municipality has
4 demonstrated it is successfully implementing and enforcing a building energy code more
5 stringent, in terms of energy efficiency, than the model code.

6 **Sec. 9. 36 MRSA §5219-BB** is enacted to read:

7 **§5219-BB. Tax credit for homes qualifying as energy efficient**

8 **1. Credit.** For taxable years beginning on or after January 1, 2009, in computing
9 Maine adjusted gross income, a taxpayer may subtract 5% of the sales price, excluding
10 commissions, taxes, interest, points and other brokerage, finance and escrow charges, of
11 one or more single family residences, condominiums or town houses that are renovated
12 and sold, or sold as new, by the taxpayer and are certified under a program of the United
13 States Environmental Protection Agency that sets guidelines for qualifying homes as
14 energy efficient under federal standards in effect at that time. The amount of the credit
15 may not exceed \$4,000 with respect to each new single family residence, condominium
16 or town house.

17 **2. Determination by bureau.** The bureau shall annually determine whether the
18 number of residences receiving a credit under subsection 1 in a single year exceeds 5% of
19 the new residences built in this State. If that is the case, the bureau shall increase the
20 energy efficiency qualifying rating for the next taxable year by 5% above the standard in
21 effect at that time under the program of the United States Environmental Protection
22 Agency that sets guidelines for qualifying homes as energy efficient.

23 **3. Transfer of credit.** A taxpayer may elect to transfer a credit under this section to
24 the purchaser of the taxpayer's residence or to the financial institution that secures a
25 mortgage or deed of trust on the residence. If the taxpayer transfers the credit, the
26 taxpayer shall deliver to the purchaser or financial institution a written statement that the
27 taxpayer has elected not to claim the credit and that the purchaser or financial institution
28 may claim the credit, subject to the conditions and limitations prescribed by this section.

29 **Sec. 10. High-performance building standard incentives.** Each municipality
30 shall establish a component of its building permit fees for all residential and commercial
31 building permit applications as its high-performance design fee. A high-performance
32 design fee must be refunded to an applicant upon a demonstration that the building plans
33 submitted with the application are designed to achieve a performance standard for energy
34 efficiency according to the following schedule:

35 1. A one hundred percent refund for plans designed to achieve 50% better energy
36 efficiency performance than the requirements of the model building energy code as
37 adopted by the Public Utilities Commission under the Maine Revised Statutes, Title 35-
38 A, section 121; and

39 2. A fifty percent refund for plans designed to achieve 30% better energy efficiency
40 performance than the model building energy code or the United States Environmental
41 Protection Agency's Energy Star program qualified home standards.

1 Unrefunded amounts must be used for municipalities' costs associated with
2 administering high-performance design fees, enforcement of the model building energy
3 code and the training and certification of building energy inspectors under the Maine
4 Revised Statutes, Title 30-A, section 4451.

5

SUMMARY

6 This bill establishes a system for the regulation and inspection of building energy
7 standards. It also creates a tax credit for homes certified as United States Environmental
8 Protection Agency's Energy Star program qualified homes and creates a high-
9 performance building standard incentive.