

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 652

H.P. 466

House of Representatives, February 19, 2009

An Act To Clarify the Maine Uniform Building and Energy Code

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GILES of Belfast.

Cosponsored by Representatives: MacDONALD of Boothbay, STRANG BURGESS of Cumberland, THIBODEAU of Winterport.

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

2 **Sec. 1. 10 MRSA §9724, sub-§3**, as enacted by PL 2007, c. 699, §6, is amended
3 to read:

4 **3. Ordinances.** Effective July 1, 2010, except as provided in subsection 4 and
5 section 9725, any ordinance regarding a building code of any political subdivision of the
6 State that is inconsistent with the Maine Uniform Building and Energy Code is void.

7 For purposes of this subsection, a local ordinance is not inconsistent with the Maine
8 Uniform Building and Energy Code if the local ordinance implements a provision of a
9 national code upon which the Maine Uniform Building and Energy Code is based as set
10 forth in Public Law 2007, chapter 699, section 21 that is not included in the Maine
11 Uniform Building and Energy Code.

12 **Sec. 2. 25 MRSA §2353**, as amended by PL 2007, c. 699, §8 and affected by §26,
13 is further amended to read:

14 **§2353. Duty to inspect buildings under construction**

15 The ~~Unless the municipality is enforcing the Maine Uniform Building and Energy~~
16 Code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the
17 inspector of buildings shall inspect each building during the process of construction for
18 compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title
19 10, chapter 1103 and so far as may be necessary to see that all proper safeguards against
20 the catching or spreading of fire are used, that the chimneys and flues are made safe and
21 that proper cutoffs are placed between the timbers in the walls and floorings where fire
22 would be likely to spread, and may give such directions in writing to the owner or
23 contractor as the inspector considers necessary concerning the construction of the
24 building so as to render the building safe from the catching and spreading of fire.

25 **Sec. 3. 25 MRSA §2357**, as amended by PL 2007, c. 699, §9 and affected by §26,
26 is further amended to read:

27 **§2357. No occupancy without certificate; appeal**

28 Subject to the provisions of Title 10, chapter 951, a building may not be occupied
29 until the inspector of buildings has given a certificate of occupancy for compliance with
30 the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter
31 1103, pursuant to the required inspections in section 2373 that the building has been built
32 in accordance with section 2353, and so as to be safe from fire. The inspector of
33 buildings may issue the certificate of occupancy upon receipt of an inspection report by a
34 certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has
35 no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing
36 the certificate of occupancy. If the owner permits it to be so occupied without such
37 certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In
38 case the inspector of buildings for any cause declines to give that certificate and the
39 builder has in the builder's own judgment complied with section 2353, an appeal may be
40 taken to the municipal officers and, if on such appeal it is decided by them that the

1 section has been complied with, the owner of the building is not liable to a fine for want
2 of the certificate of the inspector.

3 **Sec. 4. PL 2007, c. 699, §27** is amended to read:

4 **Sec. 27. Staggered effective date for enforcement of Maine Uniform**
5 **Building and Energy Code.** A municipality that has more than 2,000 residents that
6 has adopted any building code by August 1, 2008 shall begin enforcement of the Maine
7 Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes,
8 Title 10, chapter 1103 by ~~June~~ July 1, 2010. Any municipality with more than 2,000
9 residents that has not adopted any building code by August 1, 2008 shall begin
10 enforcement of the Maine Uniform Building and Energy Code by January 1, 2012.

11 The Executive Department, State Planning Office shall publish a list by January 1,
12 2010 of municipalities that must begin enforcement of the Maine Uniform Building and
13 Energy Code by July 1, 2010. This list constitutes final agency action. For purposes of
14 this section, a life safety or fire code is not considered a building code.

15 **Sec. 5. Review.** The Technical Building Codes and Standards Board under the
16 Maine Revised Statutes, Title 10, section 9722 shall review issues regarding 3rd-party
17 inspectors and inspections, including, but not limited to, tort claims protection, and make
18 any recommendations for changes to the law, including any necessary implementing
19 legislation, to the Joint Standing Committee on Business, Research and Economic
20 Development no later than February 1, 2010.

21 **Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised
22 Statutes, Title 25, sections 2353 and 2357 take effect July 1, 2010.

23 SUMMARY

24 This bill amends the law governing the Maine Uniform Building and Energy Code.

25 1. It specifically provides that a local ordinance is not inconsistent with the Maine
26 Uniform Building and Energy Code if the local ordinance implements a provision of one
27 of the national codes upon which the Maine Uniform Building and Energy Code was
28 based, but that was not included in the Maine Uniform Building and Energy Code.

29 2. It specifically exempts municipalities that are enforcing the Maine Uniform
30 Building and Energy Code through 3rd-party inspections pursuant to the Maine Revised
31 Statutes, Title 25, section 2373 from the provision of law requiring the inspector of
32 buildings to inspect construction for compliance with the Maine Uniform Building and
33 Energy Code.

34 3. It specifies that the inspector of buildings may issue a certificate of occupancy
35 upon receipt of an inspection report by a certified 3rd-party inspector and that the
36 municipality is not obligated to review such a report for accuracy.

1 4. It changes from June 1, 2010 to July 1, 2010 the date by which a municipality that
2 has adopted a building code by August 1, 2008 must begin enforcement of the Maine
3 Uniform Building and Energy Code.

4 5. It requires the Executive Department, State Planning Office to publish a list by
5 January 1, 2010 of those municipalities that must begin enforcement of the Maine
6 Uniform Building and Energy Code by July 1, 2010.

7 6. It specifies that, for purposes of determining an enforcement date, life safety and
8 fire codes are not considered building codes.

9 7. It directs the Technical Building Codes and Standards Board to review issues
10 regarding the 3rd-party inspector concept and make any recommendations that will
11 enhance the viability of this enforcement option.