

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1164

H.P. 803

House of Representatives, March 25, 2009

**An Act To Amend the Maine Certificate of Need Act of 2002 To
Change Nursing Facilities Review Thresholds for Energy Efficiency
Projects and for Replacement Equipment**

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative MILLER of Somerville.

Cosponsored by Representatives: FLOOD of Winthrop, LEWIN of Eliot, MARTIN of Eagle Lake, Senator: ROSEN of Hancock.

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

2 **Sec. 1. 22 MRSA §329, sub-§3**, as amended by PL 2007, c. 681, §3, is further
3 amended to read:

4 **3. Capital expenditures.** Except as provided in subsection 6, the obligation by or
5 on behalf of a health care facility of any capital expenditure of \$2,400,000 or more.
6 Capital expenditures in the case of a natural disaster, major accident or equipment failure
7 or for replacement equipment or for parking lots and garages, for information and
8 communications systems and for physician office space do not require a certificate of
9 need. Beginning September 30, 2004 and annually thereafter through 2007, the threshold
10 amount for review must be updated by the commissioner to reflect the change in the
11 Consumer Price Index medical index. Beginning January 1, 2009 and annually
12 thereafter, the threshold amount for review must be updated by the commissioner to
13 reflect the change in the Consumer Price Index medical index, with an effective date of
14 January 1st each year;

15 **Sec. 2. 22 MRSA §329, sub-§6**, as enacted by PL 2001, c. 664, §2, is amended to
16 read:

17 **6. Nursing facilities.** The obligation by a nursing facility, when related to nursing
18 services provided by the nursing facility, of any capital expenditures of \$510,000
19 \$1,000,000 or more. Capital expenditures in the case of a natural disaster, major accident
20 or equipment failure or for replacement equipment or parking lots and garages, for
21 information and communications systems and for physician office space do not require a
22 certificate of need. Beginning January 1, 2010 and annually thereafter, the threshold
23 amount for review must be updated by the commissioner to reflect the change in the
24 Consumer Price Index medical index, with an effective date of January 1st each year.

25 A certificate of need is not required for a nursing facility to convert beds used for the
26 provision of nursing services to beds to be used for the provision of residential care
27 services. If such a conversion occurs, public funds are not obligated for payment of
28 services provided in the converted beds;

29 A certificate of need is not required for certain energy-efficient improvements, as
30 described in section 334-A, subsection 4, paragraph A. A simplified approval of the
31 improvements may be obtained from the department's audit division under procedures set
32 forth in department rules;

33 **Sec. 3. 22 MRSA §334-A, sub-§4** is enacted to read:

34 **4. Simplified approval of projects to implement energy-efficient improvements.**
35 Nursing facility projects that implement energy-efficient improvements are not subject to
36 certificate of need approval. A simplified approval of the improvements may be obtained
37 from the department's audit division under procedures set forth in department rules.

38 **A. The eligible energy-efficient improvements are:**

39 (1) Insulation, including, but not limited to, fiberglass and cellulose;

- 1 2. It amends generic capital expenditure provisions to clarify that any type of
2 replacement equipment is not subject to review.
- 3 3. It exempts from the full certificate of need approval nursing facility projects that
4 implement certain energy-efficient improvements.
- 5 4. It requires a simplified approval process for these nursing facility energy-efficient
6 improvements, administered by the audit division of the Department of Health and
7 Human Services, consistent with department rules.
- 8 5. It requires amendments to these rules to be effective on or before January 1, 2010
9 and to require that the minimum depreciation periods between 3 and 7 years are
10 determined based on the value and efficiency of the assets and the depreciation periods
11 are not extended to mirror the terms of the financing.