

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 43

H.P. 36

House of Representatives, January 11, 2011

### An Act To Repeal the Maine Uniform Building and Energy Code

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative HARVELL of Farmington.  
Cosponsored by Representatives: CEBRA of Naples, CLARK of Easton, COTTA of China,  
CRAY of Palmyra, GIFFORD of Lincoln, JOHNSON of Eddington, LIBBY of Waterboro,  
PARRY of Arundel.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§5-A**, as enacted by PL 2007, c. 699, §1, is  
3 repealed.

4 **Sec. 2. 10 MRSA c. 1103**, as amended, is repealed.

5 **Sec. 3. 25 MRSA §2351-A**, as enacted by PL 2009, c. 261, Pt. B, §2, is amended  
6 to read:

7 **§2351-A. Building official; compensation; deputy**

8 In every town and city of more than 2,000 inhabitants, and in every town of 2,000  
9 inhabitants or less, if such a town so votes at a town meeting, and in each village  
10 corporation, if such a corporation so votes at the annual meeting of the corporation, the  
11 municipal officers shall annually in the month of April appoint a building official, who  
12 must be ~~a person certified in building standards pursuant to Title 30-A, section 4451,~~  
13 ~~subsection 2-A, paragraph E~~ skilled in the construction of buildings, and shall determine  
14 the building official's compensation. Whenever the building official becomes  
15 incapacitated, the municipal officers may appoint or authorize the building official to  
16 appoint a deputy building official, who shall serve until removed by the municipal  
17 officers, but in no event beyond the term for which the building official was appointed.  
18 The deputy building official shall perform such duties as may be required of the deputy  
19 building official by the building official. The compensation of the deputy building  
20 official is determined by the municipal officers.

21 ~~This section takes effect December 1, 2010.~~

22 **Sec. 4. 25 MRSA §2353-A**, as enacted by PL 2009, c. 261, Pt. B, §4, is amended  
23 to read:

24 **§2353-A. Duty to inspect buildings under construction**

25 ~~Unless the municipality is enforcing the Maine Uniform Building and Energy Code~~  
26 ~~by means of 3rd party inspectors pursuant to section 2373, subsection 4, the~~ The building  
27 official shall inspect each building during the process of construction ~~for compliance with~~  
28 ~~the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103~~  
29 ~~and~~ so far as may be necessary to see that all proper safeguards against the catching or  
30 spreading of fire are used, that the chimneys and flues are made safe and that proper  
31 cutoffs are placed between the timbers in the walls and floorings where fire would be  
32 likely to spread, and may give such directions in writing to the owner or contractor as the  
33 building official considers necessary concerning the construction of the building so as to  
34 render the building safe from the catching and spreading of fire.

35 ~~This section takes effect December 1, 2010.~~

36 **Sec. 5. 25 MRSA §2357-A**, as enacted by PL 2009, c. 261, Pt. B, §7, is amended  
37 to read:

1           **§2357-A. No occupancy without certificate; appeal**

2           Subject to the provisions of Title 10, chapter 951, a building may not be occupied  
3 until the building official has given a certificate of occupancy for compliance with the  
4 ~~Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103,~~  
5 ~~pursuant to the required inspections in section 2373~~ that the building has been built in  
6 accordance with section 2353-A, and so as to be safe from fire. ~~The inspector of buildings~~  
7 ~~may issue the certificate of occupancy upon receipt of an inspection report by a certified~~  
8 ~~3rd party inspector pursuant to section 2373, subsection 4. The municipality has no~~  
9 ~~obligation to review a report from a 3rd party inspector for accuracy prior to issuing the~~  
10 ~~certificate of occupancy.~~ If the owner permits it to be so occupied without such  
11 certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In  
12 case the building official for any cause declines to give that certificate and the builder has  
13 in the builder's own judgment complied with section 2353-A, an appeal may be taken to  
14 the municipal officers and, if on such appeal it is decided by them that the section has  
15 been complied with, the owner of the building is not liable to a fine for want of the  
16 certificate of the building official.

17           ~~This section takes effect December 1, 2010.~~

18           **Sec. 6. 25 MRSA §2361**, as amended by PL 2009, c. 261, Pt. B, §§11 and 12, is  
19 further amended to read:

20           **§2361. Proceedings by municipality**

21           **1-A. Municipal enforcement.** ~~Effective December 1, 2010, duly~~ Duly appointed  
22 fire chiefs or their designees, municipal building officials and code enforcement officers  
23 may bring a civil action in the name of the municipality to enforce any of the state laws,  
24 duly adopted state rules or local ordinances enacted pursuant to this Part ~~and Title 10,~~  
25 ~~chapter 1103; and~~

26           **2. Notice.** In any proceeding brought by or against the State that involves the  
27 validity of a municipal ordinance, the municipality must be given notice of the  
28 proceeding and is entitled to be made a party to the proceeding and to be heard. In any  
29 proceeding brought by or against the municipality that involves the validity of statute,  
30 ordinance or regulation, the Attorney General must be served and made a party to the  
31 proceeding and is entitled to be heard. This section applies to enforcement of statutes,  
32 rules or ordinances enacted pursuant to this Part ~~and Title 10, chapter 1103.~~

33           **Sec. 7. 25 MRSA c. 314**, as amended, is repealed.

34           **Sec. 8. 25 MRSA §2448-A, sub-§2, ¶H**, as enacted by PL 2009, c. 364, §2, is  
35 repealed.

36           **Sec. 9. 25 MRSA §2450, first ¶**, as amended by PL 2009, c. 364, §3, is further  
37 amended to read:

38           The Commissioner of Public Safety shall adopt, in accordance with requirements of  
39 the Maine Administrative Procedure Act, a schedule of fees for the examination of all

1 plans for construction, reconstruction or repairs submitted to the Department of Public  
2 Safety. The fee schedule for new construction or new use is 5¢ per square foot for  
3 occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for  
4 review of a plan for new construction by a public school may not exceed \$450. The fee  
5 schedule for reconstruction, repairs or renovations is based on the cost of the project and  
6 may not exceed \$450, ~~except as provided in section 2450-A~~. Except for projects  
7 reviewed by a municipality pursuant to section 2448-A, the fees must be credited to a  
8 special revenue account to defray expenses in carrying out this section. Any balance of  
9 the fees may not lapse, but must be carried forward as a continuing account to be  
10 expended for the same purpose in the following fiscal years. For projects reviewed by a  
11 municipality that include occupied spaces, a 1¢ fee per square foot must be remitted to  
12 the Department of Public Safety and a 4¢ fee per square foot must be paid to the  
13 municipality.

14 **Sec. 10. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is repealed.

15 **Sec. 11. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2009, c. 261, Pt.  
16 A, §14, is further amended to read:

17 E. Building standards under chapter 141; chapter 185, subchapter 1; ~~beginning June~~  
18 ~~1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.~~

19 **Sec. 12. 30-A MRSA §4451, sub-§3-A**, as enacted by PL 2007, c. 699, §17, is  
20 repealed.

21 **Sec. 13. 30-A MRSA §4451, sub-§3-B**, as enacted by PL 2009, c. 213, Pt. M,  
22 §7, is repealed.

23 **Sec. 14. 30-A MRSA §4452, sub-§5, ¶H**, as repealed by PL 2007, c. 699, §18, is  
24 reenacted to read:

25 H. Local building codes adopted pursuant to sections 3001 and 3007;

26 **Sec. 15. 30-A MRSA §4452, sub-§5, ¶I**, as repealed by PL 2007, c. 699, §18, is  
27 reenacted to read:

28 I. Local housing codes adopted pursuant to sections 3001 and 3007;

29 **Sec. 16. 30-A MRSA §4452, sub-§5, ¶T**, as corrected by RR 2007, c. 2, §16, is  
30 amended to read:

31 T. Laws pertaining to limitations on construction and excavation near burial sites and  
32 established cemeteries in Title 13, section 1371-A and local ordinances and  
33 regulations adopted by municipalities in accordance with this section and section  
34 3001 regarding those limitations; and

35 **Sec. 17. 30-A MRSA §4452, sub-§5, ¶U**, as corrected by RR 2007, c. 2, §17, is  
36 amended to read:

1 U. Standards under a wind energy development certification issued by the  
2 Department of Environmental Protection pursuant to Title 35-A, section 3456 if the  
3 municipality chooses to enforce those standards; ~~and~~.

4 **Sec. 18. 30-A MRSA §4452, sub-§5, ¶V**, as reallocated by RR 2007, c. 2, §18,  
5 is repealed.

6 **Sec. 19. 35-A MRSA §10104, sub-§9**, as enacted by PL 2009, c. 372, Pt. B, §3,  
7 is amended to read:

8 **9. Coordination with other entities.** Consistent with the requirements of this  
9 chapter and other applicable laws, the board shall coordinate with the activities and  
10 programs of state agencies and authorities that relate to the purposes of this chapter in  
11 order to align such activities and programs with the plans and programs of the trust. For  
12 purposes of this subsection, activities and programs of state agencies and authorities that  
13 relate to the purposes of this chapter include but are not limited to energy efficiency  
14 programs relating to state facilities administered by the Department of ~~Financial and~~  
15 ~~Administrative and Financial~~ Services, Bureau of General Services, ~~the adoption,~~  
16 ~~amendment and maintenance of the Maine Uniform Building and Energy Code by the~~  
17 ~~Technical Building Codes and Standards Board, established in Title 5, section 12004-G,~~  
18 ~~subsection 5-A within the Department of Public Safety,~~ energy efficiency or green energy  
19 workforce development activities of the Department of Labor or the Maine Jobs Council  
20 and energy efficiency and weatherization programs administrated by the Maine State  
21 Housing Authority.

22 **Sec. 20. PL 2007, c. 699, §27**, as amended by PL 2009, c. 261, Pt. A, §17, is  
23 repealed.

## 24 SUMMARY

25 This bill repeals the laws establishing the Maine Uniform Building and Energy Code  
26 and makes adjustments to certain other laws to make them consistent with law that  
27 existed prior to the enactment of Public Law 2007, chapter 699, which created the  
28 uniform code. This bill does not reenact the Maine Model Building Code or the energy  
29 efficiency building standards that were repealed by Public Law 2007, chapter 699 and  
30 replaced by the Maine Uniform Building and Energy Code.