

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1687

H.P. 1239

House of Representatives, December 23, 2011

An Act To Clarify the Liability of 3rd-party Building Inspectors

(EMERGENCY)

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

Received by the Clerk of the House on December 21, 2011. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative MOULTON of York.
Cosponsored by Senator RECTOR of Knox and
Representative: TURNER of Burlington.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas**, 3rd-party inspectors are authorized to inspect buildings under the Maine
4 Uniform Building and Energy Code; and

5 **Whereas**, 3rd-party inspectors are having a difficult time obtaining liability
6 insurance; and

7 **Whereas**, for the efficient implementation of the Maine Uniform Building and
8 Energy Code, this Act must take effect before the 90 days after adjournment; and

9 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
10 the meaning of the Constitution of Maine and require the following legislation as
11 immediately necessary for the preservation of the public peace, health and safety; now,
12 therefore,

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

14 **Sec. 1. 14 MRSA §8102, sub-§1**, as amended by PL 2003, c. 489, §1, is further
15 amended to read:

16 **1. Employee.** "Employee" means a person acting on behalf of a governmental entity
17 in any official capacity, whether temporarily or permanently, and whether with or without
18 compensation from local, state or federal funds, including elected or appointed officials;
19 volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service
20 personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B,
21 section 1216; members of the Maine National Guard but only while performing state
22 active service pursuant to Title 37-B; sheriffs' deputies as defined in Title 30-A, section
23 381 when they are serving orders pursuant to section 3135; persons acting as 3rd-party
24 inspectors on behalf of a state, county or local governmental entity pursuant to Title 10,
25 section 9723 or Title 25, section 2373; and persons while performing a search and rescue
26 activity when requested by a state, county or local governmental entity, but the term
27 "employee," with the exception of 3rd-party inspectors, does not mean a person or other
28 legal entity acting in the capacity of an independent contractor under contract to the
29 governmental entity.

30 **Emergency clause.** In view of the emergency cited in the preamble, this
31 legislation takes effect when approved.

32 **SUMMARY**

33 This bill clarifies the law to ensure that 3rd-party inspectors acting pursuant to the
34 Maine Uniform Building and Energy Code or a local building code have the same
35 protection from liability under the Maine Tort Claims Act as other persons acting on
36 behalf of a governmental entity.