

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1787

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H.P. 1312

House of Representatives, January 19, 2012

### **An Act To Create Efficiencies in the Administration and Enforcement of the Maine Uniform Building and Energy Code**

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Submitted by the Department of Public Safety pursuant to Joint Rule 204.  
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 PRESCOTT of Topsham.

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

2 **Sec. 1. 5 MRSA §948, sub-§1, ¶L**, as amended by PL 2009, c. 317, Pt. A, §1, is  
3 further amended to read:

4 L. Director, Maine Emergency Medical Services; and

5 **Sec. 2. 5 MRSA §948, sub-§1, ¶M**, as enacted by PL 2009, c. 317, Pt. A, §1, is  
6 amended to read:

7 M. Director, Bureau of Consolidated Emergency Communications; ~~and.~~

8 **Sec. 3. 5 MRSA §948, sub-§1, ¶N**, as enacted by PL 2009, c. 317, Pt. A, §1, is  
9 repealed.

10 **Sec. 4. 10 MRSA §9042, sub-§3**, as amended by PL 2005, c. 344, §19, is further  
11 amended to read:

12 **3. Exemption.** Notwithstanding the provisions of Title 25, section ~~2357~~ 2357-A and  
13 Title 30-A, section 4358, new manufactured housing that is manufactured, brokered,  
14 distributed, sold, installed or serviced in compliance with this chapter is exempt from all  
15 state or other political subdivision codes, standards, rules or regulations that regulate the  
16 same matters. A building permit or certificate of occupancy may not be delayed, denied  
17 or withheld on account of any alleged failure of new manufactured housing to comply  
18 with any code, standard, rule or regulation from which the new manufactured housing is  
19 exempt under this subsection.

20 **Sec. 5. 10 MRSA §9722, sub-§1**, as enacted by PL 2007, c. 699, §6, is amended  
21 to read:

22 **1. Establishment.** The Technical Building Codes and Standards Board, established  
23 in Title 5, section 12004-G, subsection 5-A and located within the Department of Public  
24 Safety, Office of the State Fire Marshal, is established to adopt, amend and maintain the  
25 Maine Uniform Building and Energy Code, to resolve conflicts between the Maine  
26 Uniform Building and Energy Code and the fire and life safety codes in Title 25, sections  
27 2452 and 2465 and to provide for training for municipal building officials, local code  
28 enforcement officers and 3rd-party inspectors.

29 **Sec. 6. 10 MRSA §9723, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended  
30 to read:

31 **2. Training program standards; implementation.** The committee shall direct the  
32 training coordinator of the ~~Bureau~~ Division of Building Codes and Standards, established  
33 in Title 25, section 2372, to develop a training program for municipal building officials,  
34 local code enforcement officers and 3rd-party inspectors. ~~The Executive Department,~~  
35 ~~State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A,~~ division shall  
36 implement, or cause to be implemented, the training and certification program established  
37 under this chapter.

1           **Sec. 7. 25 MRSA §2351-A, first ¶**, as enacted by PL 2009, c. 261, Pt. B, §2, is  
2 amended to read:

3           In every town and city of more than ~~2,000~~ 4,000 inhabitants, and in every town of  
4 ~~2,000~~ 4,000 inhabitants or less, if such a town so votes at a town meeting, and in each  
5 village corporation, if such a corporation so votes at the annual meeting of the  
6 corporation, the municipal officers shall annually in the month of April appoint a building  
7 official, who must be a person certified in building standards pursuant to Title 30-A,  
8 section 4451, subsection 2-A, paragraph E, and shall determine the building official's  
9 compensation. Whenever the building official becomes incapacitated, the municipal  
10 officers may appoint or authorize the building official to appoint a deputy building  
11 official, who shall serve until removed by the municipal officers, but in no event beyond  
12 the term for which the building official was appointed. The deputy building official shall  
13 perform such duties as may be required of the deputy building official by the building  
14 official. The compensation of the deputy building official is determined by the municipal  
15 officers.

16           **Sec. 8. 25 MRSA §2357-A, first ¶**, as amended by PL 2011, c. 365, §7, is further  
17 amended to read:

18           A building in a municipality of more than ~~2,000~~ 4,000 inhabitants may not be  
19 occupied until the building official has given a certificate of occupancy for compliance  
20 with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter  
21 1103, and in accordance with the required enforcement and inspection options provided  
22 in section 2373. The building official may issue the certificate of occupancy upon receipt  
23 of an inspection report by a certified 3rd-party inspector pursuant to section 2373,  
24 subsection 4. The municipality has no obligation to review a report from a 3rd-party  
25 inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits  
26 it to be so occupied without such certificate, the owner must be penalized in accordance  
27 with Title 30-A, section 4452. In case the building official for any cause declines to give  
28 that certificate and the builder has in the builder's own judgment complied with section  
29 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 and, if  
30 on such appeal it is decided that section 2353-A has been complied with, the owner of the  
31 building is not liable to a fine for want of the certificate of the building official.

32           **Sec. 9. 25 MRSA §2371, sub-§3**, as enacted by PL 2007, c. 699, §11, is repealed.

33           **Sec. 10. 25 MRSA §2371, sub-§5-A** is enacted to read:

34           **5-A. Division.** "Division" means the Division of Building Codes and Standards  
35 established in section 2372.

36           **Sec. 11. 25 MRSA §2371, sub-§6**, as amended by PL 2011, c. 365, §9, is further  
37 amended to read:

38           **6. Third-party inspector.** "Third-party inspector" means a person certified by the  
39 State to conduct inspections under Title 30-A, section 4451 for compliance with the code.  
40 A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any  
41 building for which the 3rd-party inspector issues an inspection report pursuant to section

1 2373 and may not serve as a 3rd-party inspector in any municipality where that 3rd-party  
2 inspector has been be appointed as a building official or code enforcement officer.

3 **Sec. 12. 25 MRSA §2372**, as enacted by PL 2007, c. 699, §11, is amended to  
4 read:

5 **§2372. Division of Building Codes and Standards**

6 **1. Established.** The ~~Bureau~~ Division of Building Codes and Standards is established  
7 within the Department of Public Safety, Office of the State Fire Marshal to provide  
8 administrative support and technical assistance to the board in executing its duties  
9 pursuant to Title 10, section 9722, subsection 6.

10 **2. Staff.** The commissioner may appoint or remove for cause staff of the ~~bureau~~  
11 division, including:

12 A. A technical codes coordinator ~~certified in building standards pursuant to Title~~  
13 ~~30-A, section 4451, subsection 2-A, paragraph E,~~ who serves as the ~~bureau~~ division  
14 director and principal administrative and supervisory employee of the board. The  
15 technical codes coordinator shall attend meetings of the board, keep records of the  
16 proceedings of the board and direct and supervise the personnel employed to carry  
17 out the duties of the board, including but not limited to providing technical support  
18 and public outreach for the adoption of the code, amendments, conflict resolutions  
19 and interpretations. Technical support and public outreach must include, but may not  
20 be limited to:

21 (1) Providing nonbinding interpretation of the code for professionals and the  
22 general public; and

23 (2) Establishing and maintaining a publicly accessible website to publish general  
24 technical assistance, code updates and interpretations and post-training course  
25 schedules; and

26 B. An office specialist to provide administrative support to the ~~bureau~~ division and  
27 the board.

28 **Sec. 13. 25 MRSA §2373, sub-§4**, as enacted by PL 2007, c. 699, §11, is  
29 amended to read:

30 **4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to  
31 Title 10, section 9723 submitted to the building official prior to obtaining a certificate of  
32 occupancy in section ~~2357~~ 2357-A that are obtained pursuant to independent contractual  
33 arrangements between the building owner and 3rd-party inspector or the municipality and  
34 3rd-party inspector.

35 **Sec. 14. 25 MRSA §2374**, as amended by PL 2009, c. 213, Pt. M, §3, is further  
36 amended to read:

1           **§2374. Uniform Building Codes and Standards Fund**

2           The Uniform Building Codes and Standards Fund, referred to in this section as "the  
3 fund," is established within the Department of Public Safety to fund the activities of the  
4 ~~bureau~~ division under this chapter and the activities of the board under Title 10, chapter  
5 1103 ~~and the Executive Department, State Planning Office under Title 30-A, section~~  
6 ~~4451, subsection 3-A~~. Revenue for this fund is provided by the surcharge established by  
7 section 2450-A. The Department of Public Safety ~~and the Executive Department, State~~  
8 ~~Planning Office~~ shall ~~together~~ determine an amount to be transferred annually from the  
9 fund for training and certification under Title 30-A, section 4451, subsection 3-A to the  
10 Maine Code Enforcement Training and Certification Fund established in Title 30-A,  
11 section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried  
12 forward as a continuing account to be expended for the same purpose in the following  
13 fiscal year.

14           **Sec. 15. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is amended to  
15 read:

16           **§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards**  
17 **Fund**

18           In addition to the fees established in section 2450, a surcharge of 4¢ per square foot  
19 of occupied space must be levied on the existing fee schedule for new construction,  
20 reconstruction, repairs, renovations or new use for the sole purpose of funding the  
21 activities of the Technical Building Codes and Standards Board with respect to the Maine  
22 Uniform Building and Energy Code, established pursuant to ~~the~~ Title 10, chapter 1103;  
23 and the activities of the Bureau Division of Building Codes and Standards under chapter  
24 ~~314 and the activities of the Executive Department, State Planning Office under Title~~  
25 ~~30-A, section 4451, subsection 3-A~~, except that the fee for review of a plan for the  
26 renovation of a public school, including the fee established under section 2450, may not  
27 exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform  
28 Building Codes and Standards Fund established by section 2374.

29           **Sec. 16. 25 MRSA §2901**, as amended by PL 2009, c. 317, Pt. E, §3, is further  
30 amended to read:

31           **§2901. Department; commissioner**

32           There is created and established the Department of Public Safety to coordinate and  
33 efficiently manage the law enforcement and public safety responsibilities of the State, to  
34 consist of the Commissioner of Public Safety, in this chapter called "commissioner," who  
35 is appointed by the Governor, subject to review by the joint standing committee of the  
36 Legislature having jurisdiction over criminal justice matters and to confirmation by the  
37 Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of  
38 State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy,  
39 the Bureau of Highway Safety, the Maine Drug Enforcement Agency, Maine Emergency  
40 Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated Emergency  
41 Communications, ~~the Bureau of Building Codes and Standards~~ and the Gambling Control  
42 Unit.

