

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1420

H.P. 1008

House of Representatives, April 16, 2013

**An Act To Return to Building Code Requirements in Effect Prior to
the Adoption of the Maine Uniform Building and Energy Code**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CAMPBELL of Orrington.
Cosponsored by Senator THOMAS of Somerset and
Representatives: CRAY of Palmyra, GIFFORD of Lincoln, JOHNSON of Eddington, Senator:
SHERMAN of Aroostook.

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3 repealed.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 §1415-J** is enacted to read:

5 **§1415-J. Mandatory standards for residential construction**

6 **1. Multifamily structures.** Effective December 1, 2013 any new construction or
7 renovation of a conditioned space in any residential building of more than 2 dwelling
8 units must conform to:

9 A. Chapter 11 of the International Residential Code for One- and Two-Family
10 Dwellings adopted by the International Code Council in 2003 or the 2003 edition of
11 the International Energy Conservation Code published by the International Code
12 Council; and

13 B. The standards adopted by ASHRAE in 2003 for ventilation practices in residential
14 low-rise building construction entitled "Ventilation and Acceptable Indoor Air
15 Quality in Low-Rise Residential Buildings," commonly referred to as ASHRAE 62.2-
16 2003.

17 **2. Waiver.** A waiver from subsection 1 may be granted by the commission on a
18 case-by-case basis for instances of renovation as defined by section 1413, subsection 15.
19 In regards to the renovation of historic buildings, a waiver is granted when the Executive
20 Director of the State Historic Preservation Commission determines that adherence to the
21 energy building standards would result in irreparable damage to the historic character of a
22 building on the National Register of Historic Places, eligible for nomination to the
23 national register or designated as a historic building by a certified municipal historic
24 preservation ordinance. In other instances, such as the rebuilding of a structure damaged
25 by fire or a historic preservation project when maintaining historic character is not an
26 issue, the Public Utilities Commission may grant a waiver when it can be shown that the
27 additional cost of meeting the energy building standards would make the building
28 renovation economically infeasible.

29 **3. Waiver decision.** The commission shall render a decision on an application for a
30 waiver from the standards within 30 days of the receipt by the commission of a complete
31 application for a waiver. In rendering a decision, the commission may place conditions
32 upon the granting of a waiver. Failure on the part of the commission to render a decision
33 within the 30-day period constitutes approval of the request for the waiver.

34 **4. Waiver application.** A request for a waiver under subsection 2 must be
35 submitted to the commission in writing and must contain the location of the renovation,
36 the intended use of the building and the names of the owner, designer and contractor or
37 builder. If applying for a waiver under the historic preservation provisions of subsection
38 2, information on the historic character of the building must be provided to the
39 commission. If applying for a waiver under the economic hardship provisions of
40 subsection 2, information on the economic infeasibility must be provided to the
41 commission.

1 **Sec. 3. 10 MRSA §1415-K** is enacted to read:

2 **§1415-K. Mandatory standards for commercial construction**

3 Except as provided in this section, new construction or substantial renovation of any
4 commercial building undertaken after December 1, 2013 must conform to ASHRAE
5 Standard 62-2001 and either ASHRAE Standard 90.1-2001 or the 2003 edition of the
6 International Energy Conservation Code published by the International Code Council
7 under any of the compliance methods specified in the standards. For the purpose of this
8 section, "substantial renovation" means any renovation for which the cost exceeds 50% of
9 the building's current value prior to renovation.

10 **1. Construction in anticipation of future sale or rental.** Any person who
11 constructs any commercial building after December 1, 2013 with the intent to sell or lease
12 the building to another party whose energy requirements are unknown at the time of
13 construction is subject to the following provisions.

14 A. The person constructing the building shall employ construction techniques and
15 design features that permit the ready installation of energy-efficient equipment and
16 materials sufficient to meet the standards established under this section that are
17 applicable to all reasonably foreseeable uses of the building.

18 B. The person to whom the building is sold or leased is responsible for promptly
19 installing the materials and equipment necessary for the building to conform with the
20 standards established under this section.

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

22 **Sec. 5. 10 MRSA c. 1105** is enacted to read:

23 **CHAPTER 1105**

24 **MAINE MODEL BUILDING CODE**

25 **§9731. Definitions**

26 As used in this chapter, unless the context otherwise indicates, the following terms
27 have the following meanings.

28 **1. Maine Model Building Code.** Except as provided in section 9733, "Maine
29 Model Building Code" includes:

30 A. The 2003 version of the International Residential Code; and

31 B. The 2003 version of the International Building Code.

32 **§9732. Limitation on code adoption**

33 A town, city or municipality may not adopt a residential building code or
34 nonresidential building code other than the Maine Model Building Code after the
35 effective date of this chapter. A town, city or municipality that adopts the Maine Model
36 Building Code may adopt amendments to the code at any time, as long as such an

1 amendment does not result in the adoption of all or a significant portion of any code other
2 than the code adopted pursuant to this section. This section may not be construed to
3 prevent a town, city or municipality from selectively adopting parts or portions of the
4 Maine Model Building Code or from adopting a building rehabilitation code.

5 **§9733. Law in conflict with Maine Model Building Code**

6 To the extent that provisions of the Maine Model Building Code conflict with the
7 following provisions of law, those provisions of the Maine Model Building Code are not
8 applicable and may not be enforced:

9 **1. Fire safety codes and standards.** Fire safety codes and standards adopted
10 pursuant to Title 25, sections 2452 and 2465;

11 **2. Electrical standards.** Electrical standards adopted pursuant to Title 32, section
12 1153-A;

13 **3. Plumbing code.** The plumbing code adopted pursuant to Title 32, section
14 3403-B;

15 **4. Oil and solid fuel burning equipment standards.** Oil and solid fuel burning
16 equipment standards adopted pursuant to Title 32, section 18107;

17 **5. Propane and natural gas equipment standards.** Propane and natural gas
18 equipment standards adopted pursuant to Title 32, section 18107;

19 **6. Boiler and pressure vessel standards.** Boiler and pressure vessel standards
20 adopted pursuant to Title 32, section 15104-A;

21 **7. Elevator standards.** Elevator standards adopted pursuant to Title 32, section
22 15228; and

23 **8. Energy efficiency standards.** Energy efficiency standards adopted pursuant to
24 section 1415-K.

25 **§9734. References within Maine Model Building Code**

26 Codes and standards other than the International Residential Code and the
27 International Building Code that are referenced within the Maine Model Building Code
28 are not automatically adopted as part of the Maine Model Building Code.

29 **§9735. Municipal codes adopted prior to effective date of chapter**

30 A residential building code or nonresidential building code adopted by a town, city or
31 municipality prior to the effective date of this chapter is not invalidated by this chapter,
32 and nothing in this chapter may be construed to affect the validity of such a residential
33 building code or nonresidential building code.

1 **§9736. Additional training not required**

2 This chapter does not require the Department of Economic and Community
3 Development to provide any training or certification of building officials in any areas
4 other than those enumerated in Title 30-A, section 4451, subsection 2-A.

5 **Sec. 6. 22 MRSA §776, sub-§2**, as amended by PL 2011, c. 144, §3, is repealed.

6 **Sec. 7. 25 MRSA §2351-A**, as amended by PL 2011, c. 582, §3, is further
7 amended to read:

8 **§2351-A. Building official; compensation; deputy**

9 In every town and city of more than 2,000 inhabitants, and in every town of 2,000
10 inhabitants or less, if such a town so votes at a town meeting, and in each village
11 corporation, if such a corporation so votes at the annual meeting of the corporation, the
12 municipal officers shall annually in the month of April appoint a building official skilled
13 in the construction of buildings and shall determine the building official's compensation.
14 If a building official is appointed by a municipality that has adopted ~~or is enforcing~~ the
15 Maine ~~Uniform Model Building and Energy Code~~ or a portion of the Maine ~~Uniform~~
16 ~~Model Building and Energy Code~~ pursuant to Title 10, section ~~9724~~ 9732, that building
17 official must be certified in building standards pursuant to Title 30-A, section 4451,
18 subsection 2-A, paragraph E. Whenever the building official becomes incapacitated, the
19 municipal officers may appoint or authorize the building official to appoint a deputy
20 building official, who shall serve until removed by the municipal officers, but in no event
21 beyond the term for which the building official was appointed. The deputy building
22 official shall perform such duties as may be required of the deputy building official by the
23 building official. The compensation of the deputy building official is determined by the
24 municipal officers.

25 **Sec. 8. 25 MRSA §2353-A**, as amended by PL 2011, c. 582, §4, is further
26 amended to read:

27 **§2353-A. Duty to inspect buildings under construction**

28 The building official shall inspect each building during the process of construction so
29 far as may be necessary to see that all proper safeguards against the catching or spreading
30 of fire are used, that the chimneys and flues are made safe and that proper cutoffs are
31 placed between the timbers in the walls and floorings where fire would be likely to
32 spread, and may give such directions in writing to the owner or contractor as the building
33 official considers necessary concerning the construction of the building so as to render
34 the building safe from the catching and spreading of fire. For a building official in a
35 municipality that ~~is enforcing~~ has adopted the Maine ~~Uniform Model Building and~~
36 ~~Energy Code~~ pursuant to Title 10, section ~~9724~~ 9732, ~~unless the municipality is enforcing~~
37 ~~that code by means of 3rd party inspectors pursuant to section 2373, subsection 4,~~ the
38 building official shall inspect each building during the process of construction for
39 compliance with the Maine ~~Uniform Model Building and Energy Code~~ adopted pursuant
40 to Title 10, chapter ~~1103~~ 1105.

1 **Sec. 9. 25 MRSA §2356**, as amended by PL 2011, c. 582, §5, is repealed.

2 **Sec. 10. 25 MRSA §2357-A**, as amended by PL 2011, c. 582, §6, is further
3 amended to read:

4 **§2357-A. No occupancy without certificate; appeal**

5 A building in a municipality of more than 2,000 inhabitants may not be occupied
6 until the building official has given a certificate of occupancy for compliance with the
7 inspections required by section 2353-A. A building in a municipality of more than 2,000
8 inhabitants that has adopted ~~or is enforcing~~ the Maine Uniform Model Building and
9 Energy Code pursuant to Title 10, section ~~9724~~ 9732 may not be occupied until the
10 building official has given a certificate of occupancy for compliance with the Maine
11 Uniform Model Building and Energy Code adopted pursuant to Title 10, chapter ~~4403~~,
12 ~~and in accordance with the required enforcement and inspection options provided in~~
13 ~~section 2373~~ 1105. ~~The building official may issue the certificate of occupancy upon~~
14 ~~receipt of an inspection report by a certified 3rd party inspector pursuant to section 2373,~~
15 ~~subsection 4. The municipality has no obligation to review a report from a 3rd party~~
16 ~~inspector for accuracy prior to issuing the certificate of occupancy.~~ If the owner permits
17 it to be so occupied without such certificate, the owner must be penalized in accordance
18 with Title 30-A, section 4452. In case the building official for any cause declines to give
19 that certificate and the builder has in the builder's own judgment complied with section
20 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 ~~or~~
21 ~~through an alternative appeal process that has been established by ordinance pursuant to~~
22 ~~Title 10, section 9724, subsection 5.~~ If on such appeal it is decided that section 2353-A
23 has been complied with, the owner of the building is not liable to a fine for want of the
24 certificate of the building official.

25 **Sec. 11. 25 MRSA §2361**, as amended by PL 2011, c. 365, §8, is further amended
26 to read:

27 **§2361. Proceedings by municipality**

28 **1-A. Municipal enforcement.** ~~Effective December 1, 2010, duly~~ Duly appointed
29 fire chiefs or their designees, municipal building officials and code enforcement officers,
30 when authorized by their respective municipal employer, may bring a civil action in the
31 name of the municipality to enforce any of the state laws, duly adopted state rules or local
32 ordinances enacted pursuant to this Part and Title 10, chapter ~~4403~~ 1105; and

33 **2. Notice.** In any proceeding brought by or against the State that involves the
34 validity of a municipal ordinance, the municipality must be given notice of the
35 proceeding and is entitled to be made a party to the proceeding and to be heard. In any
36 proceeding brought by or against the municipality that involves the validity of statute,
37 ordinance or regulation, the Attorney General must be served and made a party to the
38 proceeding and is entitled to be heard. This section applies to enforcement of statutes,
39 rules or ordinances enacted pursuant to this Part and Title 10, chapter ~~4403~~ 1105.

40 **Sec. 12. 25 MRSA c. 314**, as amended, is repealed.

1 **Sec. 13. 25 MRSA §2448-A, sub-§2, ¶H**, as enacted by PL 2009, c. 364, §2, is
2 repealed.

3 **Sec. 14. 25 MRSA §2450, first ¶**, as amended by PL 2009, c. 364, §3, is further
4 amended to read:

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

20 **Sec. 15. 25 MRSA §2450-A**, as amended by PL 2011, c. 633, §12 and c. 655, Pt.
21 FF, §4 and affected by §16, is repealed.

22 **Sec. 16. 30-A MRSA §4215, sub-§4**, as amended by PL 2011, c. 655, Pt. FF, §5
23 and affected by §16, is further amended to read:

24 **4. Fees.** The plumbing inspector shall issue any permit under this section upon
25 receipt and approval of a completed application form as prescribed by the commissioner
26 and payment by the applicant of the fee established by the municipality. The fee must be
27 at least the minimum amount determined by rule of the department. One-quarter of the
28 amount of the minimum fee must be paid through the department to the Treasurer of State
29 to be maintained as a permanent fund and used by the department to implement its
30 subsurface wastewater disposal rules, to administer the receipt and collation of completed
31 permits and to issue plumbing permit labels to the municipality ~~and by the Department of~~
32 ~~Economic and Community Development, Office of Community Development for training~~
33 ~~and certification of local plumbing inspectors. The department and the Department of~~
34 ~~Economic and Community Development, Office of Community Development shall~~
35 ~~together determine an amount to be transferred annually by the Treasurer of State for~~
36 ~~training and certification of local plumbing inspectors to the Maine Code Enforcement~~
37 ~~Training and Certification Fund established in section 4451, subsection 3-B. The~~
38 ~~remainder of the fee must be paid to the treasurer of the municipality.~~

39 **Sec. 17. 30-A MRSA §4451, sub-§1, ¶D**, as amended by PL 2011, c. 655, Pt.
40 FF, §8 and affected by §16, is further amended to read:

41 D. An individual whose certification has expired or is about to expire may be
42 temporarily authorized in writing by the Department of Economic and Community

1 Development, Office of Community Development to extend that individual's
2 certification for a period not to exceed 12 months ~~in cases where the necessary~~
3 ~~training or examination is suspended under subsection 3-B, paragraph E.~~

4 **Sec. 18. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2011, c. 613,
5 §27 and affected by §29, is further amended to read:

6 E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections
7 4582-B, 4582-C and 4594-F; beginning ~~June 1, 2010~~ December 1, 2013, Title 10,
8 chapter ~~4403~~ 1105; and Title 25, chapter 313.

9 **Sec. 19. 30-A MRSA §4451, sub-§3-A**, as amended by PL 2011, c. 655, Pt. FF,
10 §8 and affected by §16, is repealed.

11 **Sec. 20. 30-A MRSA §4451, sub-§3-B**, as amended by PL 2011, c. 655, Pt. FF,
12 §8 and affected by §16, is repealed.

13 **Sec. 21. 30-A MRSA §4452, sub-§5, ¶H**, as repealed by PL 2007, c. 699, §18, is
14 reenacted to read:

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

16 **Sec. 22. 30-A MRSA §4452, sub-§5, ¶I**, as repealed by PL 2007, c. 699, §18, is
17 reenacted to read:

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

19 **Sec. 23. 30-A MRSA §4452, sub-§5, ¶T**, as corrected by RR 2007, c. 2, §16, is
20 amended to read:

21 T. Laws pertaining to limitations on construction and excavation near burial sites and
22 established cemeteries in Title 13, section 1371-A and local ordinances and
23 regulations adopted by municipalities in accordance with this section and section
24 3001 regarding those limitations; and

25 **Sec. 24. 30-A MRSA §4452, sub-§5, ¶U**, as corrected by RR 2007, c. 2, §17, is
26 amended to read:

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

30 **Sec. 25. 30-A MRSA §4452, sub-§5, ¶V**, as reallocated by RR 2007, c. 2, §18,
31 is repealed.

32 **Sec. 26. 35-A MRSA §10104, sub-§9**, as amended by PL 2011, c. 627, §5, is
33 further amended to read:

34 **9. Coordination with other entities.** Consistent with the requirements of this
35 chapter and other applicable laws, the board shall coordinate with the activities and
36 programs of state agencies and authorities that relate to the purposes of this chapter in
37 order to align such activities and programs with the plans and programs of the trust. For

1 purposes of this subsection, activities and programs of state agencies and authorities that
2 relate to the purposes of this chapter include but are not limited to energy efficiency
3 programs relating to state facilities administered by the Department of Administrative and
4 Financial Services, Bureau of General Services, ~~the adoption, amendment and~~
5 ~~maintenance of the Maine Uniform Building and Energy Code by the Technical Building~~
6 ~~Codes and Standards Board, established in Title 5, section 12004 G, subsection 5 A~~
7 ~~within the Department of Public Safety,~~ energy efficiency or green energy workforce
8 development activities of the Department of Labor or the State Workforce Investment
9 Board and energy efficiency and weatherization programs administered by the Maine
10 State Housing Authority.

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

13 **Sec. 28. Effective date.** This Act takes effect December 1, 2013.

14 **SUMMARY**

15 This bill repeals the laws establishing the Maine Uniform Building and Energy Code
16 and makes adjustments to certain other laws to make them consistent with law that
17 existed prior to the enactment of Public Law 2007, chapter 699, which created the
18 uniform code. This bill reestablishes the Maine Model Building Code, which was
19 repealed by Public Law 2007, chapter 699 and replaced by the Maine Uniform Building
20 and Energy Code. The bill has a delayed effective date of December 1, 2013.