

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 207

H.P. 128

House of Representatives, January 20, 2023

**An Act to Transfer Responsibility for Administering the Maine
Uniform Building and Energy Code from the Department of Public
Safety, Office of the State Fire Marshal to the Department of
Professional and Financial Regulation**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MORRIS of Turner.
Cosponsored by Senator POULIOT of Kennebec and
Representatives: BRADSTREET of Vassalboro, CYRWAY of Albion, MILLETT of
Waterford, NUTTING of Oakland, Senator: TIMBERLAKE of Androscoggin.

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

2 **PART A**

3 **Sec. A-1. 10 MRSA §8001, sub-§3-A**, as enacted by PL 2001, c. 182, §5, is
4 amended to read:

5 **3-A. Office of Securities.** Office of Securities; ~~and~~

6 **Sec. A-2. 10 MRSA §8001, sub-§37-A** is enacted to read:

7 **37-A. Technical Building Codes and Standards Board.** Technical Building Codes
8 and Standards Board;

9 **Sec. A-3. 10 MRSA §8001, sub-§37-B** is enacted to read:

10 **37-B. Division of Building Codes and Standards.** Division of Building Codes and
11 Standards; and

12 **Sec. A-4. 10 MRSA §9722, sub-§1**, as amended by PL 2011, c. 633, §5, is further
13 amended to read:

14 **1. Establishment.** The Technical Building Codes and Standards Board, established
15 in Title 5, section 12004-G, subsection 5-A and located within the Department of ~~Public~~
16 ~~Safety, Office of the State Fire Marshal Professional and Financial Regulation~~, is
17 established to adopt, amend and maintain the Maine Uniform Building and Energy Code,
18 to resolve conflicts between the Maine Uniform Building and Energy Code and the fire and
19 life safety codes in Title 25, sections 2452 and 2465 and to provide for training for
20 municipal building officials, local code enforcement officers and 3rd-party inspectors.

21 **Sec. A-5. 10 MRSA §9722, sub-§3**, as enacted by PL 2007, c. 699, §6, is amended
22 to read:

23 **3. Ex officio member; chair.** The Commissioner of ~~Public Safety Professional and~~
24 ~~Financial Regulation~~, or the commissioner's designee, serves as an ex officio member and
25 as the chair of the board. The chair is a nonvoting member, except in the case of a tie of
26 the board. The chair is responsible for ensuring that the board maintains the purpose of its
27 charge when executing its assigned duties, that any adoption and amendment requirements
28 for the Maine Uniform Building and Energy Code are met and that training and technical
29 assistance is provided to municipal building officials.

30 **Sec. A-6. 10 MRSA §9722, sub-§6, ¶E**, as amended by PL 2009, c. 261, Pt. A,
31 §6, is further amended to read:

32 E. On January 31st of each calendar year ~~beginning in 2011~~, report to the joint standing
33 committee of the Legislature having jurisdiction over business, research and economic
34 development matters any proposals for proposed conflict resolutions for codes and
35 standards referenced in section 9725, subsections 2 to 7; proposals to improve the
36 efficiency and effectiveness of those codes and standards; and alternative methods of
37 funding for the board to create an equitable source of revenue;

38 **Sec. A-7. 10 MRSA §9722, sub-§6, ¶O**, as amended by PL 2021, c. 524, §2, is
39 further amended to read:

1 O. ~~No later than July 1, 2020, adopt~~ Adopt, amend and maintain an appendix to the
2 Maine Uniform Building and Energy Code as an optional part of the code that contains
3 energy conservation and efficiency requirements that are based on established national
4 voluntary efficiency standards that exceed the energy code requirements established in
5 the Maine Uniform Building and Energy Code. As the code is updated, the board shall
6 ensure that the energy conservation and efficiency requirements in the appendix
7 continue to exceed the requirements established in the Maine Uniform Building and
8 Energy Code. The appendix must be made available for voluntary adoption by any
9 municipality. The board shall maintain a list of municipalities that have voluntarily
10 adopted the appendix to the Maine Uniform Building and Energy Code on its publicly
11 accessible website; and

12 **Sec. A-8. 10 MRSA §9722-A** is enacted to read:

13 **§9722-A. Division of Building Codes and Standards**

14 **1. Established.** The Division of Building Codes and Standards, referred to in this
15 section as "the division," is established within the Department of Professional and Financial
16 Regulation to provide administrative support and technical assistance to the board in
17 executing its duties pursuant to section 9722, subsection 6.

18 **2. Staff.** The Commissioner of Professional and Financial Regulation may appoint
19 and may remove for cause staff of the division, including:

20 A. A technical codes coordinator certified in building standards pursuant to Title 30-A,
21 section 4451, subsection 2-A, paragraph E, who serves as the division director and
22 principal administrative and supervisory employee of the board. The technical codes
23 coordinator shall attend meetings of the board, keep records of the proceedings of the
24 board and direct and supervise the personnel employed to carry out the duties of the
25 board, including but not limited to providing technical support and public outreach for
26 the adoption of the Maine Uniform Building and Energy Code, amendments, conflict
27 resolutions and interpretations. Technical support and public outreach must include,
28 but may not be limited to:

29 (1) Providing nonbinding interpretation of the Maine Uniform Building and
30 Energy Code for professionals and the general public; and

31 (2) Establishing and maintaining a publicly accessible website to publish general
32 technical assistance, Maine Uniform Building and Energy Code updates and
33 interpretations and post-training course schedules; and

34 B. An office specialist to provide administrative support to the division and the board.

35 **Sec. A-9. 10 MRSA §9723, sub-§2**, as amended by PL 2019, c. 517, §1, is further
36 amended to read:

37 **2. Training program standards; implementation.** The committee shall direct the
38 training coordinator of the Division of Building Codes and Standards, established in ~~Title~~
39 ~~25, section 2372~~ 9722-A, to develop a training program for municipal building officials,
40 local code enforcement officers and 3rd-party inspectors. The Department of ~~Public~~
41 ~~Safety, Office of the State Fire Marshal~~ Professional and Financial Regulation, pursuant to
42 Title 30-A, section 4451, subsection 3-A, shall implement the training and certification
43 program established under this chapter.

1 **Sec. A-10. 10 MRSA §9724, sub-§2**, as amended by PL 2013, c. 588, Pt. D, §2, is
2 repealed.

3 **Sec. A-11. 10 MRSA §9724, sub-§3**, as amended by PL 2011, c. 365, §4, is further
4 amended to read:

5 **3. Ordinances.** ~~Effective December 1, 2010, except~~ Except as provided in subsection
6 5 and section 9725, any ordinance regarding a building code of any political subdivision of
7 the State that is inconsistent with the Maine Uniform Building and Energy Code is void.

8 **Sec. A-12. 25 MRSA §2371, sub-§5**, as enacted by PL 2007, c. 699, §11, is
9 repealed.

10 **Sec. A-13. 25 MRSA §2371, sub-§5-A**, as enacted by PL 2011, c. 633, §8, is
11 amended to read:

12 **5-A. Division.** "Division" means the Division of Building Codes and Standards
13 established in ~~Title 10, section 2372~~ 9722-A.

14 **Sec. A-14. 25 MRSA §2372**, as amended by PL 2019, c. 517, §2, is repealed.

15 **Sec. A-15. 25 MRSA §2374**, as amended by PL 2019, c. 517, §3, is further amended
16 to read:

17 **§2374. Uniform Building Codes and Standards Fund**

18 The Uniform Building Codes and Standards Fund, referred to in this section as "the
19 fund," is established within the Department of ~~Public Safety~~ Professional and Financial
20 Regulation to fund the activities of the division under this chapter and the activities of the
21 board under Title 10, chapter 1103 and Title 30-A, section 4451, subsection 3-A. Revenue
22 for this fund is provided by the surcharge established by section 2450-A. The Department
23 of ~~Public Safety~~ Professional and Financial Regulation shall determine an amount to be
24 transferred annually from the fund for training and certification under Title 30-A, section
25 4451, subsection 3-A to the Maine Code Enforcement Training and Certification Fund
26 established in Title 30-A, section 4451, subsection 3-B. Any balance of the fund may not
27 lapse, but must be carried forward as a continuing account to be expended for the same
28 purpose in the following fiscal year.

29 **Sec. A-16. 30-A MRSA §4451**, as amended by PL 2019, c. 517, §5, is further
30 amended to read:

31 **§4451. Training and certification for code enforcement officers**

32 **1. Certification required; exceptions.** A municipality may not employ any
33 individual to perform the duties of a code enforcement officer who is not certified by the
34 ~~former State Planning Office, the~~ Department of Economic and Community Development,
35 Office of Community Development or the Department of ~~Public Safety, Office of the State~~
36 ~~Fire Marshal~~ Professional and Financial Regulation, except that:

37 A. An individual other than an individual appointed as a plumbing inspector has 12
38 months after beginning employment to be trained and certified as provided in this
39 section;

40 B. Whether or not any extension is available under paragraph A, the Department of
41 ~~Public Safety, Office of the State Fire Marshal~~ Professional and Financial Regulation

1 may waive this requirement for up to one year if the certification requirements cannot
2 be met without imposing a hardship on the municipality employing the individual;

3 C. An individual may be temporarily authorized in writing by the Department of
4 Health and Human Services, Division of Health Engineering to be employed as a
5 plumbing inspector for a period not to exceed 12 months; and

6 D. An individual whose certification has expired or is about to expire may be
7 temporarily authorized in writing by the Department of ~~Public Safety, Office of the~~
8 ~~State Fire Marshal~~ Professional and Financial Regulation to extend that individual's
9 certification for a period not to exceed 12 months in cases where the necessary training
10 or examination is suspended under subsection 3-B, paragraph E.

11 **2. Penalty.** Any municipality that violates this section commits a civil violation for
12 which a fine of not more than \$100 may be adjudged. Each day in violation constitutes a
13 separate offense.

14 **2-A. Code enforcement officer; definition and duties.** As used in this subchapter,
15 "code enforcement officer" means a person certified under this section and employed by a
16 municipality to enforce all applicable laws and ordinances in the following areas:

- 17 A. Shoreland zoning under Title 38, chapter 3, subchapter 1, article 2-B;
- 18 B. Comprehensive planning and land use under Part 2, Subpart 6-A;
- 19 C. Internal plumbing under chapter 185, subchapter 3;
- 20 D. Subsurface wastewater disposal under chapter 185, subchapter 3; and
- 21 E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections
22 4582-B, 4582-C and 4594-F; Title 10, chapter 1103; and Title 25, chapter 313.

23 **3. Training and certification of code enforcement officers.** In cooperation with
24 code enforcement officer professional associations, the Maine Community College System,
25 the Department of Environmental Protection and the Department of Health and Human
26 Services, except as otherwise provided in paragraph H, the Department of ~~Public Safety,~~
27 ~~Office of the State Fire Marshal~~ Professional and Financial Regulation shall establish a
28 continuing education program for individuals engaged in code enforcement. This program
29 must provide training in the technical and legal aspects of code enforcement necessary for
30 certification. The training program must include training to provide familiarity with the
31 laws and ordinances related to the structure and practice of the municipal code enforcement
32 office, municipal planning board and appeals board procedures, application review and
33 permitting procedures, inspection procedures and enforcement techniques.

34 H. If funding is not available to support the training and certification program
35 authorized under this subsection, the Department of ~~Public Safety, Office of the State~~
36 ~~Fire Marshal~~ Professional and Financial Regulation shall discontinue training and
37 certification activities related to laws and ordinances referenced in subsection 2-A,
38 paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter
39 375, subchapter 2-A a program to register code enforcement officers that meet training
40 and education qualifications. The Department of ~~Public Safety, Office of the State Fire~~
41 ~~Marshal~~ Professional and Financial Regulation shall publish the list of persons
42 registered for code enforcement who have submitted evidence of required
43 qualifications. Persons registered under this paragraph must meet the requirements for

1 training and certification under this subchapter. The Department of ~~Public Safety,~~
2 ~~Office of the State Fire Marshal~~ Professional and Financial Regulation shall consult
3 with the Department of Health and Human Services for the purposes of carrying out
4 training and certification activities related to laws and ordinances referenced in
5 subsection 2-A, paragraphs C and D. Within one month of discontinuation of training
6 and certification under this paragraph, the Department of ~~Public Safety,~~
7 ~~Office of the State Fire Marshal~~ Professional and Financial Regulation shall report to the joint
8 standing committee of the Legislature having jurisdiction over appropriations and
9 financial affairs and the joint standing committee of the Legislature having jurisdiction
10 over state and local government matters a recommendation for funding the training and
11 certification program or for further changes in program requirements.

12 **3-A. Training and certification of inspectors in the Maine Uniform Building and**
13 **Energy Code.** In accordance with the training and certification requirements developed
14 pursuant to Title 10, section 9723, the Department of ~~Public Safety,~~ ~~Office of the State Fire~~
15 ~~Marshal~~ Professional and Financial Regulation shall provide the training necessary to
16 certify municipal building officials, local code enforcement officers and 3rd-party
17 inspectors.

18 **3-B. Maine Code Enforcement Training and Certification Fund.** The Maine Code
19 Enforcement Training and Certification Fund, referred to in this section as "the fund," is
20 established as a nonlapsing fund to support training and certification programs
21 administered by the Department of ~~Public Safety,~~ ~~Office of the State Fire Marshal~~
22 Professional and Financial Regulation for code enforcement officers, local plumbing
23 inspectors, municipal building officials and 3rd-party inspectors in accordance with this
24 subchapter.

25 A. On July 1st of each year, the funds identified in section 4215, subsection 4 for
26 training and certifying local plumbing inspectors must be transferred to the fund.

27 B. On July 1st of each year, the funds identified in Title 25, section 2374 for training
28 and certifying municipal building officials, local code enforcement officers and 3rd-
29 party inspectors must be transferred to the fund.

30 C. The Department of ~~Public Safety,~~ ~~Office of the State Fire Marshal~~ Professional and
31 Financial Regulation shall place in the fund any money it receives from grants to
32 support the requirements of this subchapter.

33 D. Funds related to code enforcement training and certification may be expended only
34 in accordance with allocations approved by the Legislature and solely for the
35 administration of this subchapter. Any balance remaining in the fund at the end of any
36 fiscal year may not lapse but must be carried forward to the next fiscal year.

37 E. If the fund does not contain sufficient money to support the costs of the training and
38 certification provided for in this subchapter, the Department of ~~Public Safety,~~ ~~Office~~
39 ~~of the State Fire Marshal~~ Professional and Financial Regulation may suspend all or
40 reduce the level of training and certification activities.

41 **4. Examination.** The Department of ~~Public Safety,~~ ~~Office of the State Fire Marshal~~
42 Professional and Financial Regulation shall conduct at least one examination each year to
43 examine candidates for certification at a time and place designated by it. The Department

1 of ~~Public Safety, Office of the State Fire Marshal~~ Professional and Financial Regulation
2 may conduct additional examinations to carry out the purposes of this subchapter.

3 **5. Certification standards.** The Department of ~~Public Safety, Office of the State Fire~~
4 ~~Marshal~~ Professional and Financial Regulation shall adopt routine technical rules under
5 Title 5, chapter 375, subchapter 2-A to establish the qualifications, conditions and licensing
6 standards and procedures for the certification and recertification of individuals as code
7 enforcement officers. A code enforcement officer need only be certified in the areas of
8 actual job responsibilities. The rules established under this subsection must identify
9 standards for each of the areas of training under subsection 2-A, in addition to general
10 standards that apply to all code enforcement officers.

11 **6. Certification; terms; revocation.** The Department of ~~Public Safety, Office of the~~
12 ~~State Fire Marshal~~ Professional and Financial Regulation shall certify individuals as to their
13 competency to successfully enforce ordinances and other land use regulations and permits
14 granted under those ordinances and regulations and shall issue certificates attesting to the
15 competency of those individuals to act as code enforcement officers. Certificates issued
16 by the ~~former State Planning Office, the~~ Department of Economic and Community
17 Development, Office of Community Development or the Department of ~~Public Safety,~~
18 ~~Office of the State Fire Marshal~~ Professional and Financial Regulation are valid for 6 years
19 unless revoked by the District Court. An examination is not required for recertification of
20 code enforcement officers. The Department ~~Public Safety, Office of the State Fire Marshal~~
21 of Professional and Financial Regulation shall recertify a code enforcement officer if the
22 code enforcement officer successfully completes at least 12 hours of approved training in
23 each area of job responsibility during the 6-year certification period.

24 A. The District Court may revoke the certificate of a code enforcement officer, in
25 accordance with Title 4, chapter 5, when it finds that:

26 (1) The code enforcement officer has practiced fraud or deception;

27 (2) Reasonable care, judgment or the application of a duly trained and
28 knowledgeable code enforcement officer's ability was not used in the performance
29 of the duties of the office; or

30 (3) The code enforcement officer is incompetent or unable to perform properly the
31 duties of the office.

32 B. Code enforcement officers whose certificates are invalidated under this subsection
33 may be issued new certificates provided that they are newly certified as provided in
34 this section.

35 **7. Other professions unaffected.** This subchapter may not be construed to affect or
36 prevent the practice of any other profession.

37 **Sec. A-17. 35-A MRSA §10104, sub-§9,** as amended by PL 2019, c. 298, §22, is
38 further amended to read:

39 **9. Coordination with other entities.** Consistent with the requirements of this chapter
40 and other applicable laws, the board shall coordinate with the activities and programs of
41 state agencies and authorities that relate to the purposes of this chapter in order to align
42 such activities and programs with the plans and programs of the trust. For purposes of this
43 subsection, activities and programs of state agencies and authorities that relate to the
44 purposes of this chapter include but are not limited to energy efficiency programs relating

1 to state facilities administered by the Department of Administrative and Financial Services,
2 Bureau of General Services, the adoption, amendment and maintenance of the Maine
3 Uniform Building and Energy Code by the Technical Building Codes and Standards Board,
4 established in Title 5, section 12004-G, subsection 5-A within the Department of Public
5 Safety Professional and Financial Regulation, energy efficiency or green energy workforce
6 development activities of the Department of Labor or the State Workforce Board, energy
7 efficiency and weatherization programs administered by the Maine State Housing
8 Authority and the activities of the nonwires alternative coordinator established pursuant to
9 section 1701, subsection 2-A.

10 **Sec. A-18. Effective date.** This Part takes effect January 1, 2024.

11 **PART B**

12 **Sec. B-1. Transition.** Notwithstanding the Maine Revised Statutes, Titles 10 and
13 25, the following provisions apply to the reassignment of the duties and responsibilities of
14 the Technical Building Codes and Standards Board and the Division of Building Codes and
15 Standards from the Department of Public Safety, Office of the State Fire Marshal to the
16 Department of Professional and Financial Regulation.

17 1. The Technical Building Codes and Standards Board and the Division of Building
18 Codes and Standards shall cooperate with the Department of Professional and Financial
19 Regulation to transfer to the department all of the powers, duties and functions of the
20 Technical Building Codes and Standards Board and the Division of Building Codes and
21 Standards.

22 2. Notwithstanding the provisions of Title 5, all accrued expenditures, assets,
23 liabilities, balances of appropriations, allocations, transfers, revenues or other available
24 money in an account or subdivision of an account of the Technical Building Codes and
25 Standards Board and the Division of Building Codes and Standards must be transferred to
26 the proper accounts of the Department of Professional and Financial Regulation by the
27 State Controller or by financial order on the request of the State Budget Officer and with
28 the approval of the Governor.

29 3. All rules of the Technical Building Codes and Standards Board and the Division of
30 Building Codes and Standards that are in effect on the effective date of this Act remain in
31 effect until rescinded, revised or amended.

32 4. All contracts, agreements and compacts of the Technical Building Codes and
33 Standards Board and the Division of Building Codes and Standards that are in effect on the
34 effective date of this Act remain in effect until they expire or are altered by the parties
35 involved in the contracts or agreements. The Department of Professional and Financial
36 Regulation is the successor agency for all federal programs, grants and contracts.

37 5. All records of the Technical Building Codes and Standards Board and the Division
38 of Building Codes and Standards must be transferred to the Department of Professional and
39 Financial Regulation as necessary to implement this Act.

40 6. All property and equipment of the Technical Building Codes and Standards Board
41 and the Division of Building Codes and Standards are transferred to the Department of
42 Professional and Financial Regulation as necessary to implement this Act.

