

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 1141

S. P. 479

In Senate, March 7, 1951

Referred to the Committee on Legal Affairs. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Allen of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Relating to Building Codes.

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

R. S., c. 82-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 82-A, to read as follows:

'CHAPTER 82-A.

BUILDING CODES

Sec. 1. Department of buildings; commissioner, appointment, term, qualifications, salary. There is hereby created a department of buildings which shall be under the charge and supervision of the commissioner of buildings, hereinafter referred to as the "commissioner." He shall be a full-time employee appointed for a term of 3 years by the governor and approved by the council. To be eligible for appointment, the commissioner shall be a graduate of a recognized school of architecture, engineering or public administration or engineering administration and shall have had at least 10 years of administrative experience in the field of the design and construction of buildings. As a substitute for the above qualifications he may be eligible for appointment if he has had 15 years of administrative and responsible technical experience in the field of building design and construction. He shall be generally informed on the quality and strength of

building materials, on the prevailing methods of building construction, on sound practice in fire prevention, on the accepted requirements for safe exist facilities, and on the proper installation of plumbing, electric wiring, elevators and other installations for the safety of occupants. He shall not engage in or have interest directly or indirectly in the making of plans, writing of specifications, construction of buildings, the sale or manufacture of any material, process or device pertinent to the building industry, except as an owner of real estate. He shall be in good health, physically capable of directing the necessary inspections. He shall receive a salary as determined by the governor and council. He shall not be removed from office except for cause nor until full opportunity has been given him to be heard on specific charges presented before the governor and council in accordance with the laws of this state. In case of temporary absence or disability of the commissioner, the deputy commissioner, appointed as hereinafter provided, shall act on matters which require prompt official attention and he shall have the same powers and duties as the commissioner during the commissioner's official absence from duty.

Sec. 2. Deputy Commissioner, district supervisors, inspectors salaries, duties. The commissioner may appoint a deputy commissioner; and district supervisors who have had at least 10 years of administrative or responsible technical experience as registered architects, registered engineers or superintendents of construction. He may also appoint, after examinations in accord with the civil service law, inspectors, who have had at least 5 years of technical experience in architecture, engineering or construction. The deputy commissioner, district supervisors and inspectors shall receive salaries as determined by the governor and council.

The comissioner shall submit on or before the 1st of December of each year a report to the governor and state legislature, covering the work of the department during the preceding period. Such report shall include the minutes of all meetings of the board of standards, all public hearings, copies of all regulations issued and all other business of his department required under the provisions of this chapter. The commissioner may establish districts each in charge of a district supervisor.

The commissioner may take whatever action, not contrary to the laws of this state or municipal charters, which he deems necessary for the public safety and health. Whenever he exercises powers under the provisions of this chapter, he shall cooperate with the local building department in performing his duties as herein defined. He shall, however, be empowered to take independent action when he deems it necessary. He shall have the same privilege to enter and inspect any building or premises as is granted

to the local building superintendent, and he may require that any existing building or structure comply with all or any of the provisions of this chapter, and may take action to enforce such requirement.

Sec. 3. Board of standards; membership, duties, salaries, finance. There shall be a board to be called the board of standards, consisting of 5 members and which shall always include a registered architect, a registered engineer, a builder with 10 or more years of experience, a representative of the building trades unions, and a fire-prevention engineer. The commissioner, or the deputy commissioner, shall be present at each meeting of the board and at all hearings held before the board. He shall cause records to be kept of all such meetings and hearings, and shall provide for the issuing of all notices regarding the same.

The governor, with the approval of the council, shall appoint one member of said board to serve for 1 year, one to serve for 2 years, one for 3 years, one for 4 years, and one for 5 years. Thereafter in each year, the governor, with the approval of the council, shall appoint one member to serve for a term of 5 years, to replace the one whose term expires, and such new member shall be a representative with the same qualifications as that of the member whose term has expired. The chairman of the board shall be elected annually by the members of said board. The governor shall, with the approval of the council, fill all vacancies on said board caused by death, resignation or removal, for any unexpired terms. In all such appointments, the member appointed shall have the same qualifications and be a member of the same group which will thus be unrepresented.

No member of said board shall sit on a case in which he may have a commercial or corporate interest, and in case of such disqualification, or of the necessary absence of any member, the chairman shall designate an alternate, as is hereinafter provided for, who represents the same group as the disqualified or absent member. No action shall be taken by the board unless a quorum of qualified members of the groups are present. Four members of the board shall be considered as a quorum, and a majority shall be required for action.

The governor, with the approval of the council, shall appoint an alternate for each group, and any alternate so serving shall be of the same group and with the same qualifications as the member or members of the official board who are disqualified or absent.

Each member or alternate of the board of standards shall be paid \$10 per day for actual service. The reasonable expenses of said board, including such clerical assistance, traveling expenses and office expenses shall

be budgeted by the commissioner and approved in accordance with the laws governing appropriations.

There shall be a separate budget, approved by the commissioner of finance for the department of buildings and the board of standards, and the commissioner shall employ such technical and clerical assistance as may be necessary to carry out the duties imposed by this chapter, subject to the provisions of the personnel law.

Sec. 4. Duties of board of standards. The board of standards may at the request of the commissioner or on its own initiative review any action by a local building department, a local board of appeal or a local licensing board submitted to it. It shall also have power to initiate directly, or after a review by the commissioner, action to approve or disapprove the use of new materials, methods of construction, equipment or matters relating to maintenance. Any permit, certificate of occupancy, action of a local board of appeals or local licensing board which allows construction or occupancy which is in violation of this chapter or below the minimum requirements of this chapter or regulations issued under it shall be reviewed by the board of standards after a public hearing and allowed or disallowed under this section. The decisions of the board shall be final, unless reversed by action taken under the provisions of section 8.

The board of standards shall have the power to promulgate, or amend, or repeal previously promulgated regulations, with respect to the design, construction and occupancy of buildings and other structures, and with respect to materials, equipment and standards of acceptance and such other matters as relate to public safety and health which are not specifically covered by this chapter and which are in accord with generally accepted principles and practice, but only after a public hearing called by it for the specific regulations concerned. The board shall, at the request of the commissioner or on its own initiative, render decisions on matters when requested by the commissioner.

The commissioner shall prepare and issue regulations promulgated by the board of standards and the same shall become effective on the date printed on each such issue of regulations.

The board of standards shall establish its own rules of conduct not inconsistent with law and such rules shall be filed with the commissioner for public information.

The commissioner shall establish and publish such administrative procedures as are necessary to provide attendance at meetings of the board of

standards, control of inspectors, and annual reports, and such other matters as are necessary for carrying out the provisions of this chapter.

No full-time officer, employe or clerk connected with the department of buildings shall engage in or have interest directly or indirectly in the making of plans, writing of specifications, construction of buildings, the sale or manufacture of any material, process or device pertinent to the building industry, except as an owner of real estate.

Sec. 5. Building department; personnel, qualifications, duties of superintendent. There shall be in each municipality a department called the building department, which shall be under the charge and supervision of a superintendent of buildings, hereinafter called the superintendent. The superintendent shall be the authorized representative of the commissioner for the enforcement of this chapter. Each such building department shall have a full-time or part-time superintendent of buildings. Two or more municipalities may cooperate to meet the provisions of this section. Such arrangements shall be local but in accord with law.

The superintendent shall be appointed by the department of buildings. He shall receive such salary as shall be fixed by local ordinance or by law. He shall be a graduate of a recognized school of architecture or a school of architectural, structural or civil engineering with at least 6 years of responsible experience as architect, architectural, structural or civil engineer or superintendent of construction or any person who has had at least 10 years' experience as an architect, architectural, structural, or civil engineer, superintendent of construction or building inspector in the department. He shall be in good health, physically capable of performing his duties in the department.

The superintendent shall establish with the approval of the municipal officers such administrative procedures as are necessary to carry out the provisions of this chapter. He shall have the power of entry at reasonable times to any building or premises in the municipality to perform any duty imposed upon him by this chapter, and shall establish his identity upon request to do so.

The superintendent shall file with the commissioner or with the district supervisor of his district 1 copy of every building permit or certificate of occupancy granted for new work, demolition, removal, alteration and change of occupancy, and of every action of a local board of appeals or local licensing board. He shall make inspections, at least 1 every year, of all buildings or portions of buildings used for public assembly, institutional buildings and hotels. All other buildings and structures shall be inspected

whenever the superintendent has reason to believe there is danger to life and limb. One copy of every report on all such inspections shall be filed with the commissioner or district supervisor.

The superintendent shall annually submit a report to the commissioner. He shall incorporate in said report a summary of all permits, certificates of occupancy, inspections, decisions of the local board of appeals, proceedings before the board of standards and may submit recommendations of desirable amendments of regulations to be issued under this chapter.

Sec. 6. Extent of regulations. The provisions of this chapter shall apply to the construction, alteration, additions, removal, equipment, occupation, height, area, location and maintenance of all buildings and structures, in the municipality except insofar as such matters are otherwise provided for in a municipal charter, or apply to buildings or land ceded to the United States.

The provisions of this chapter and regulations issued under it shall be held to be the minimum requirements adopted for the promotion of the safety and health of the public. This chapter shall not repeal, abrogate, annul or in any way impair or interfere with any existing provision of the law or ordinances other than such ordinances and codes pertaining to the erection, alteration, inspection and use of buildings which are less restrictive, which are hereby repealed. This chapter shall not abrogate or annul any easements or agreements between parties which have been granted or issued prior to the date of adoption of this chapter.

The provisions of this chapter apply to buildings or structures on land and to structures or construction that are appurtenant to such buildings or structures which are not otherwise provided for and shall apply with equal force to municipal, county or state buildings, as they do to private buildings. "Structures" or "constructions" as above used shall include all shelters, platforms, and other units used for the housing or accomodation of persons for whatever purpose.

Sec. 7. Substitution of materials and methods. Whoever desires to substitute for the materials or methods covered by this chapter, materials or methods of construction or maintenance not covered thereby, shall present to the superintendent, or directly to the commissioner, or board of standards, plans, methods of analysis of the system or qualities of the material and shall make such additional tests or present satisfactory evidence of such tests as the superintendent or the commissioner may require. The costs of any tests required to determine acceptability of substitute materials or methods shall be paid by the applicant. A superintendent may

submit all of the data and information to the commissioner who shall review same and obtain a decision of acceptance or rejection from the board of standards.

Sec. 8. Review. Any person or persons who have been refused their request and are aggrieved by the action or decision of any officer or board under this chapter may apply to a judge of the superior court for a review of such action. The judge, within 30 days of such application, shall appoint a board of review consisting of 3 members, one of which is a registered architect, one a registered engineer and one a builder with at least 10 years' experience. This board shall hold a hearing under its own rules of procedure and thereafter shall render a decision within 30 days to the appointing judge, which decision shall be binding on all parties. Where such decision reverses the action or decision taken by the officer or board involved, such officer or board shall immediately grant relief to the applicant, in accord with the recommendations of the board of review. No such decision shall be a precedent, but shall apply to the particular application only, and in no case shall the initial action of any officer or board be subject to action for damages.

Sec. 9. Conflict with other laws. The codes or ordinances pertaining to the construction and inspection of buildings in municipalities existing at the time of the effective date of this chapter, whch are in violation of or less restrictive than the provisions of this chapter, are hereby repealed.