

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

maintenance of a new jail facility authorized under chapter 17 is not subject to paragraphs A, B and C or to subsections 2, 6 and 7. Notwithstanding subsection 2, paragraph A, the county assessment limit for fiscal year 2007-08 for Sagadahoc County and fiscal year 2008 in Lincoln County is the county assessment for each county for the previous fiscal year, multiplied by one plus the growth limitation factor pursuant to subsection 3. Notwithstanding subsection 2, paragraph C, the county assessments for Sagadahoc County in fiscal year 2008-09 and subsequent fiscal years and for Lincoln County in fiscal year 2009 and subsequent fiscal years are subject to subsection 2, paragraph B.

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

Effective June 8, 2005.

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**CHAPTER 349**

**S.P. 618 - L.D. 1670**

**An Act To Exempt Internet Services from Auctioneer Licensure**

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

**Whereas,** there is uncertainty as to the application of auctioneering laws to sales over the Internet; and

**Whereas,** it is in the best interests of the citizens of Maine to resolve this uncertainty as soon as possible; and

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

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

**Sec. 1. 32 MRSA §286, sub-§8** is enacted to read:

**8. Contracted Internet services.** This chapter does not apply to an individual who takes possession of goods pursuant to a contract for the exclusive purpose of selling those goods over the Internet, unless otherwise licensed under this chapter.

This subsection is repealed May 15, 2007.

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

Effective June 8, 2005.

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**CHAPTER 350**

**H.P. 1191 - L.D. 1685**

**An Act Regarding Energy Codes**

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

**Sec. 1. 10 MRSA §1413, sub-§4,** as enacted by PL 1979, c. 503, §2, is amended to read:

**4. Commission.** "Commission" means the Commission on Energy Efficiency Building Performance Standards Public Utilities Commission.

**Sec. 2. 10 MRSA §1413, sub-§7,** as amended by PL 1989, c. 501, Pt. DD, §21, is repealed.

**Sec. 3. 10 MRSA §1413, sub-§12,** as amended by PL 1987, c. 818, §2, is further amended to read:

**12. Commercial building.** "Commercial ~~or institutional~~ building" means any building and any addition to an existing building ~~which that is~~ not a residential or industrial building ~~as defined herein.~~

**Sec. 4. 10 MRSA §1413, sub-§16,** as amended by PL 1991, c. 246, §5, is further amended to read:

**16. Residential building.** "Residential building" means a detached one-family or 2-family dwelling; a dwelling in a group of single-family or multifamily structure designed for year round or winter seasonal use and additions to those buildings. Notwithstanding section 9042, subsection 3, this term includes modular homes as defined in Title 30-A, section 4358 that are installed in the State dwellings that is not more than 3 stories in height and with a separate means of egress; a group of more than 2 dwelling units that are 3 stories or fewer in height and whose occupants are primarily permanent; a building 3 stories or fewer in height that is arranged for occupancy as a residential care or assisted living facility for more than 5 but not more than 16 occupants; and an accessory structure to any of these buildings.

This definition is intended to be the same as the definition of "residential building" in the model building energy code adopted by the commission by

major substantive rule pursuant to Title 35-A, section 121.

**Sec. 5. 10 MRSA §1414-A**, as amended by PL 1989, c. 501, Pt. DD, §23, is further amended to read:

**§1414-A. Adoption of energy performance building standards by state agencies**

Energy performance building standards adopted by state agencies ~~shall~~ must be coordinated with ~~each other~~ one another, as far as practicable, so that similar activities and buildings are treated in a similar way. The ~~Commissioner of Economic and Community Development~~ commission shall assist other state agencies in developing energy standards ~~which~~ that comply with this section.

**Sec. 6. 10 MRSA §1415-C, first ¶**, as amended by PL 2003, c. 151, §3, is repealed.

**Sec. 7. 10 MRSA §1415-C, sub-§3**, as amended by PL 2003, c. 645, §4, is further amended to read:

**3. Multifamily structures.** Effective January 1, 2004 ~~2006~~, ~~in addition to conforming to the requirements of this section~~, any new construction or renovation of a conditioned space in any residential building of more than 2 dwelling units must conform to ~~ASHRAE Standard 62-2001 and ASHRAE Standard 90.1-2001~~. For the purposes of this subsection, ~~compliance with the 2003 edition of the International Energy Conservation Code published by the International Code Council constitutes compliance with ASHRAE Standard 90.1-2001.~~

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

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

**Sec. 8. 10 MRSA §1415-C, sub-§§4 and 5**, as amended by PL 1991, c. 824, Pt. A, §14, are further amended to read:

**4. Waiver.** A waiver from subsection 3 may be granted by the ~~commissioner~~ commission on a case-by-case basis for instances of renovation as defined by section 1413, subsection 15. In regards to the renovation of historic buildings, a waiver is granted

when the Executive Director of the State Historic Preservation Commission determines that adherence to the energy building standards would result in irreparable damage to the historic character of a building on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance. In other instances, such as the rebuilding of a structure damaged by fire or a historic preservation project when maintaining historic character is not an issue, the ~~commissioner~~ Public Utilities Commission may grant a waiver when it can be shown that the additional cost of meeting the energy building standards would make the building renovation economically infeasible.

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

**Sec. 9. 10 MRSA §1415-D**, as amended by PL 2003, c. 645, §5, is further amended to read:

**§1415-D. Mandatory standards for commercial construction**

Except as provided in this section, new construction or substantial renovation of any commercial ~~or institutional~~ building undertaken after January 1, 2004 must conform to ASHRAE Standard 62-2001 and ~~either~~ either ASHRAE Standard 90.1-2001 or the 2003 edition of the International Energy Conservation Code published by the International Code Council under any of the compliance methods specified in the standards. ~~For the purpose of this section compliance with the 2003 edition of the International Energy Conservation Code published by the International Code Council constitutes compliance with ASHRAE Standard 90.1-2001.~~ For the purpose of this section, "substantial renovation" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

**1. Construction in anticipation of future sale or rental.** Any person who constructs any commercial ~~or institutional~~ building after January 1, 1989 with the intent to sell or lease the building to another party whose energy requirements are unknown at the time of construction is subject to the following provisions.

A. The person constructing the building shall employ construction techniques and design features that permit the ready installation of energy

efficient equipment and materials sufficient to meet the standards established under this section ~~which that~~ are applicable to all reasonably foreseeable uses of the building.

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

**Sec. 10. 10 MRSA §1415-E**, as amended by PL 2003, c. 644, §3, is further amended to read:

**§1415-E. Administration of standards**

**1. Administration.** ~~The Department of Economic and Community Development~~ commission is responsible for the administration ~~and enforcement~~ of the standards established in this chapter. In administering these standards, the ~~Department of Economic and Community Development~~ commission shall:

A. Work cooperatively with other state, regional and local agencies interested in or affected by these standards and may, by rules adopted in accordance with Title 5, chapter 375, distribute to regional planning councils funds made available for this purpose.

**Sec. 11. 10 MRSA §1415-G**, as amended by PL 2003, c. 20, Pt. RR, §8, is further amended to read:

**§1415-G. Electric heating systems; subsidized housing**

**1. Residential construction, remodeling and renovation.** Except as provided in this section, during the construction, remodeling or renovation of a multifamily residential ~~building structure~~, a person may not install electric space heating equipment as the primary heating system if that construction, remodeling or renovation is funded in whole or in part by public funds, guarantees or bond proceeds. For purposes of this section, "multifamily residential ~~building structure~~" means a residential structure with more than one dwelling unit.

**2. Waiver.** After written petition from a building owner, the ~~commissioner~~ commission shall grant a waiver from subsection 1 if the building design conforms to the residential standards set forth in subsection 3 or 4. A waiver granted by the ~~commissioner~~ commission under this subsection must be in writing and state the ~~commissioner's~~ commission's reason for granting the waiver.

**3. Residential standards; electric heat.** If the ~~commissioner~~ commission grants a waiver under subsection 2, the building owner shall renovate the building or construct a new building so that the entire

building conforms to the minimum energy efficiency standards established in this section. If a waiver is granted under subsection 2 for a building to be remodeled or a building that receives an addition, only the remodeled portion of the building or the addition must conform to the following minimum energy efficiency standards.

A. All ceilings that face an outdoor or unheated space must be insulated to an R-value of 57 or greater.

B. All walls that face an outdoor or unheated space must be insulated to an R-value of 38 or greater.

C. All floors over unheated spaces must be insulated to an R-value of 25 or greater.

D. Slab-on-grade floors must have perimeter insulation of either:

(1) R-15 when the insulation extends downward from the top of the slab to the design frost line; or

(2) R-15 when the insulation extends around the perimeter and horizontally or diagonally beneath or away from the slab for a distance equivalent to the depth of the frost line.

E. All foundation walls adjacent to a heated space must be insulated from the top of the foundation to the frost line to an R-value of 19 or greater.

F. All windows and glass in doors, when the glass in the door constitutes 1/3 or more of the door area, must have a total window unit R-value of 2.5 or greater.

G. All exterior doors must be insulated or equipped with a storm door.

H. All new construction and renovation must comply with infiltration and ventilation standards established by the ~~commissioner~~ commission.

**4. Performance-based compliance.** ~~Effective January 1, 1992, the commissioner~~ The commission may waive the requirements of subsection 3 for any building if the ~~commissioner~~ commission determines that the building's calculated annual energy consumption is not greater than the annual energy consumption of a similar building constructed in accordance with subsection 3.

The commission shall ~~commissioner shall~~ commission may adopt rules that establish a performance-based compliance procedure for residential buildings ~~before January 1, 1992.~~ Rules adopted pursuant to this subsection are

routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**5. Violation.** A building owner who violates this section or rules adopted under this section commits a civil violation for which a ~~forfeiture~~ fine of not less than \$100 nor more than 5% of the value of construction must be adjudged.

**6. Notification.** An agency, municipality or granting authority that provides a housing subsidy as described in this section must notify the ~~Public Utilities Commission~~ commission that the application complies with the residential energy requirements of this section. Notification must be in a form prescribed by rule by the commission.

**Sec. 12. 10 MRSA §1415-H**, as amended by PL 2003, c. 20, Pt. RR, §9 and affected by §18, is repealed.

**Sec. 13. 10 MRSA §1415-I** is enacted to read:

**§1415-I. Notice**

The commission shall develop materials that provide information about the mandatory standards imposed under section 1415-D and the penalties for noncompliance established under section 1420. The commission shall provide copies of the materials to permitting authorities who shall in turn distribute those copies to persons seeking permits to construct or renovate commercial buildings. For purposes of this section, "permitting authorities" means authorities with jurisdiction over the issuance of building permits or other permits associated with the construction or renovation of commercial buildings. The commission may also provide copies of the materials or other educational materials to entities involved in the design or construction of commercial buildings.

**Sec. 14. 10 MRSA §1420, sub-§3**, as enacted by PL 1987, c. 818, §5, is amended to read:

**3. All other buildings.** ~~After January 1, 1989, it~~ It is unlawful for any person to construct any residential, or commercial ~~or institutional~~ building in violation of section 1415-C or 1415-D. The owner of any building constructed in violation of this subsection is subject to a civil penalty not to exceed 5% of the value of the construction, payable to the State, to be recovered in a civil action.

**Sec. 15. 35-A MRSA §121, sub-§2**, as enacted by PL 2003, c. 645, §6, is amended to read:

**2. Model code.** After the effective date of rules adopted pursuant to subsection 1, a municipality may not adopt a building energy code other than the model building energy code or an amended version of the

model building energy code. For purposes of this subsection, "amended version of the model energy building code" means a version of the code that does not include certain parts or portions of the code or that creates new exemptions from its requirements but does not include a version of the code that includes modifications to any standard established in the code. Nothing in this section requires a municipality to adopt a building energy code. A municipality that has a building energy code in effect prior to the effective date of the rules may continue to keep that code, but if the municipality replaces its energy code it must adopt the model building energy code or an amended version of the model energy building code in accordance with this subsection.

**Sec. 16. Changes to multifamily building standards; effective date.** Those sections of this Act that amend or repeal portions of the Maine Revised Statutes, Title 10, section 1415-C take effect on January 1, 2006.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 351**

**S.P. 147 - L.D. 449**

**An Act To Make Changes to the Pine Tree Development Zones**

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

**Whereas**, changes to the Pine Tree Development Zone laws are required to simplify the zone amendment process, to clarify the sales tax exemptions before they become effective on July 1, 2005 and to allow for more efficient and effective administration of the Pine Tree Development Zones; and

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

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

**Sec. 1. 30-A MRSA §5250-I, sub-§§3 to 5**, as enacted by PL 2003, c. 688, Pt. D, §2, are amended to read:

**3. Average employment during base period.** "Average employment during the base period" for a business means the total number of ~~qualified~~ qualified employ-