

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

which case the member filling this seat must be of the defendant's profession; and

C. Three members must be dentists.

If the defendant is a doctor from a dental specialty, at least one of the dentists selected to the panel must, if possible, be of that specialty.

5. Vacancy. In the event of a vacancy on a panel, the board shall appoint a replacement member from the pool under subsection 2.

6. Terms; vacancy. Members of the pool serve 5-year terms. Members may be reappointed. In the event of a vacancy in the pool, the board shall select a replacement member in the same manner as the original selection subject to the provisions of subsection 2.

7. Chair. The members of a panel shall select a chair from among its members. Any member may serve as the chair.

8. Duties and authority of a panel. Upon referral of a complaint by the board pursuant to section 1077, subsection 1, paragraph C to a panel convened pursuant to subsection 3, the panel shall hold an adjudicatory hearing. Upon completion of the adjudicatory hearing, the panel shall issue a decision or order to:

A. Take any action authorized by section 1077, subsection 1; Title 10, section 8003, subsection 5; or Title 10, section 8003-D; or

B. Dismiss the complaint.

9. Compensation. Members of a panel are entitled to reimbursement for travel expenses.

10. Panel meetings. A panel shall hold its first meeting at the request of the board. Subsequent meetings must be held at the request of the chair of the panel.

11. Quorum. Four members of a panel constitutes a quorum.

12. Repeal. This section is repealed September 15, 2014.

Sec. 3. Authority to report out a bill. The Board of Dental Examiners shall report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters concerning the implementation of the dental adjudicatory panel system under the Maine Revised Statutes, Title 32, section 1080 by January 15, 2014. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters may report out a bill regarding the dental adjudicatory panel system to the Second Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 582
S.P. 529 - L.D. 1619

**An Act To Resolve Conflicts in
the Implementation of the
Maine Uniform Building and
Energy Code**

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

Sec. 1. 10 MRSA §9724, sub-§5, as enacted by PL 2011, c. 365, §6, is amended to read:

5. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. If such an ordinance does not provide for a process to appeal decisions made by building officials administering and enforcing the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code, an appeal may be taken in the same manner as provided under Title 30-A, section 4103, subsection 5. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth the swimming pool fencing standards, without amendment, contained in Appendix G of the 2nd edition of the 2009 International Residential Code.

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

- (1) Log homes or manufactured housing as defined in chapter 951;
- (2) Post and beam or timber frame construction; or
- (3) Warehouses or silos used to store harvested crops.

B. The requirements of the 2009 edition of the International Energy Conservation Code within the Maine Uniform Building and Energy Code do not apply to seasonally restricted cottages.

For the purposes of this paragraph, "seasonally restricted cottage" means a residential building unit made up of a room or group of rooms that provide sleeping accommodations, as well as accommodations for bathing and cooking, for not more than the entire summer season and that do not have water service after the summer season. This paragraph is repealed June 15, 2012.

Sec. 2. 10 MRSA §9724, sub-§6 is enacted to read:

6. Adoption by reference. The Maine Uniform Building Code, the Maine Uniform Energy Code and the Maine Uniform Building and Energy Code may be

adopted by reference by a municipality as specified in Title 30-A, section 3003.

Sec. 3. 25 MRSA §2351-A, as enacted by PL 2009, c. 261, Pt. B, §2, is amended to read:

§2351-A. Building official; compensation; deputy

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

~~This section takes effect December 1, 2010.~~

Sec. 4. 25 MRSA §2353-A, as enacted by PL 2009, c. 261, Pt. B, §4, is amended to read:

§2353-A. Duty to inspect buildings under construction

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

the municipality is enforcing that code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall inspect each building during the process of construction for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

~~This section takes effect December 1, 2010.~~

Sec. 5. 25 MRSA §2356, as amended by PL 2009, c. 261, Pt. B, §6, is further amended to read:

§2356. Appeals

~~An~~ Unless an alternative appeal process has been established by ordinance pursuant to Title 10, section 9724, subsection 5, an appeal in writing may be taken from any order or direction of the building official to the municipal officers, whose order thereon is final.

Sec. 6. 25 MRSA §2357-A, as amended by PL 2011, c. 94, §1 and c. 365, §7, is further amended to read:

§2357-A. No occupancy without certificate; appeal

A building in a municipality of more than 2,000 inhabitants may not be occupied until the building official has given a certificate of occupancy for compliance with the inspections required by section 2353-A. A building in a municipality of more than 2,000 inhabitants that has adopted or is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724 may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, and in accordance with the required enforcement and inspection options provided in section 2373. The building official may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 and, if or through an alternative appeal process that has been established by ordinance pursuant to Title 10, section 9724, subsection 5. If on such appeal it is decided that section 2353-A has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

~~This section takes effect December 1, 2010.~~

See title page for effective date.