MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib

Reproduced from electronic and/or scanned originals

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
Adoption of Codes/Standards by new board	**Establishes a Technical Building Codes and Standards Board within** the **Department of Public Safety,** to adopt, amend and maintain the Maine Uniform Building and Energy Code, to **resolve conflicts** between the Maine Uniform Building and Energy Code and other building-related codes and **to provide for training** for municipal building inspectors. **Membership.** The board consists of 11 voting members, appointed by the Governor: A. The State Fire Marshal or a designee; B. A fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization; C. A municipal code enforcement officer employed by a municipality that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization; D. A municipal code enforcement officer employed by a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization; E. A residential builder recommended by a statewide regional association of home builders and remodelers; F. A commercial builder recommended by a statewide association of general contractors; G. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects; H. A structural engineer licensed in the State, recommended by a statewide association of structural engineers; I. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is: (1) An architect licensed in the State; (2) A structural engineer licensed in the State; or (3) A builder; J. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who is: (1) An architect licensed in the State; (2) A structural engineer licensed in the State; or (3) A builder; and K. A professional building access specialist experienced with state and federal accessibility regulations, recommended by the Maine Human Rights Commission. A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.	Issues from testimony: The national building and energy codes would be customized, adopted and updated by this new board. Once the board has adopted a code, municipalities would no longer amend/adopt codes locally, but would be responsible for enforcement. Proposed amendment from Northeast Energy Efficiency Partnerships: o Proposals for additional members on the board: ▪ Building material supplier ▪ Representatives from HHS (public health officer) ▪ Member from each of the following boards: plumbing, electrical, boiler and elevator ▪ Local fire marshal, independent of local fire chief ▪ A builder with experience in historic preservation ▪ Individual w/ expertise in design/implementation of energy codes or energy efficiency measures in residential or commercial construction ▪ Mechanical engineer (instead of structural) Proposed amendment from Modular Home Builders Association: o Not necessary to have both a municipal fire chief and State Fire Marshall as voting members; State Fire Marshall should be an ex-officio nonvoting member. Should have a mechanical engineer on the codes board/ have PE and architectural stamps on larger commercial buildings Proposed amendment from Maine Indoor Air Quality Council o Include a mechanical engineer on the Building Codes Board Proposed amendment from Maine Interior Designer Association: o Add a licensed Certified Interior Designer to the board Proposed amendment from Maine Fire Chiefs Association: o There should be a stronger presence of public safety, at least one or two more Fire Chiefs on the Technical Committee Proposed amendment from ME Building Officials and Inspectors Association: o Technical Building Codes and Standards Board should be an independent division within DPS, not under the jurisdiction of the Fire Marshalls Office. o The 2 building officials should hold current certification in Building Standards from State Planning Office. o The Chair should be selected by the Board. o The quorum should be at least a majority of the total, instead of 5 members. Proposed amendment from ME Building Officials and Inspectors Association: o § 9722, sub-§ 6 (C) (4) and (5) should be stricken: changes to the code should be allowed using a process similar to that used by the model code- amendments published and effective once a year, otherwise local code officials will have difficulty enforcing and

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	• **Ex officio member; chair.** The Commissioner of Public Safety, or the commissioner's designee, serves as a nonvoting ex officio member and as the chair of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building inspectors. • **Terms; removal.** Appointments to the board are made for a 4-year term, and members are eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment immediately effective for the unexpired term. A member of the board may be removed from the board for cause by the Governor. • **Meetings; quorum.** The board shall meet quarterly and at such other times as the board determines necessary. Five voting members of the board constitute a quorum for the transaction of business under this chapter. • **Duties and powers.** In addition to other duties set forth in this chapter, the board shall: A. Adopt rules necessary to carry out its duties. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; B. Adopt, amend and maintain the Maine Uniform Building and Energy Code; C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building and Energy Code, including: (1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public; (2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes: (a) An identification of the types and an estimate of the number of the small businesses subject to the proposed amendment; (b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record; c) A brief statement of the probable impact on affected small businesses; and (d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment; (3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to: (a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State; (b) Ensure consistency with state rules or federal regulations; or	knowing what is included in the code. o § 9722, sub-§ 6 (E): technical advisory groups should be made up of the members of the Technical Building Codes and Standards Board acting as a subcommittee. They should be able to hire outside consultants to evaluate and recommend changes.

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	(c) Correct errors and omissions; (4) Timelines governing the filing of amendments, which must require board action within 90 days of filing; and (5) A process for publication of adopted amendments within 30 days of adoption; D. Identify and resolve conflicts between the Maine Uniform Building and Energy Code and the codes and standards referenced in section 9725. The board shall develop rules designed to resolve these conflicts, which must include: (1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts; (2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and (3) Publication of resolution of the conflict within 30 days of adoption; E. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on amendments to the Maine Uniform Building and Energy Code, national model codes revisions and conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code; F. In accordance with section 9723, ensure that training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building inspectors; and G. Make historic preservation a policy priority in the adoption and amendment of the Maine Uniform Building and Energy Code. (1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code. (2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code.	
• **Training & Certification**	• § 9723. **Training and certification:** • **1. Appoint committee; establish requirements.** The board shall appoint a 5-member training and certification committee to establish the training and certification requirements for municipal building inspectors.	• Municipal enforcement: Current law requires towns/cities with more than 2,000 people to appoint an "inspector of buildings"; • § 2373 (pg.8) requires "inspectors of buildings" to enforce the code. • Training and certification section refers to: "municipal building inspectors"—should it be referencing "inspector of buildings"? • Proposed amendment from ME Building Officials and Inspectors

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	2. Training program. The committee shall **direct the training coordinator** of the Division of Building Codes and Standards, established in Title 25, section 2372, **to develop a training program** for municipal building inspectors. **3. Annual review.** The committee shall **annually review** the training program developed pursuant to subsection 2 to **confirm that training courses are regularly offered** in geographically diverse locations **and** that **training for municipal building inspectors is fully funded by the State**.	Association: o Code enforcement officers and inspector of buildings are sometimes 2 different people in larger municipalities; building inspector is now often associated with private home inspectors who are not associated with municipalities. Term should be changed to "Building Official" as that is the term used by the model codes. o Code enforcement officers are required to have 12 hours of continuing education every 5 years for each area of job responsibility. This bill could add significantly to the amount of training required of these officials; it should specify how many hours of training must be received in order to achieve certification and be recertified.
Limits on Home Rule/ effect on Prior Codes/Standards	**Application** **1. Limitations on home rule authority.** This chapter provides **express limitations on municipal home rule authority**. **2. Prior statewide codes and standards.** Effective January 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter **replaces,** and is intended to be the **successor to**, the **Model Energy Code** established in Title 35-A, section 121 and the **Maine model radon standard** for **new residential construction** set forth in Title 25, section 2466. **3. Ordinances.** Effective **January 1, 2010**, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is **inconsistent with the Maine Uniform Building and Energy Code is void**. **4. Exception.** This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision regarding a building code that **conforms substantially** with any applicable provision of state law or that sets forth provisions for local enforcement of building codes.	Section 4: Regarding the exception: who decides if a municipality "conforms substantially" with the state building code?
Fire & Building Codes Remaining in Effect	**§ 9725. Fire and building-related codes and standards remain** The codes and standards listed in this section remain in force in their entirety unless the board adopts and publishes a conflict resolution between them and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into these codes by the appropriate authorities: **1. Fire safety codes and standards.** Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465; **2. Electrical standards.** Electrical standards adopted pursuant to Title 32,	Will the Board have the authority to require other state agencies to comply with the rulings of the Board regarding conflict resolutions between the codes?

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	section 1153-A; 3. **Plumbing code.** The plumbing code adopted pursuant to Title 32, section 3403-B; 4. **Oil and solid fuel burning equipment standards.** Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 2353; 5. **Propane and natural gas equipment standards.** Propane and natural gas equipment standards adopted pursuant to Title 32, section 14804; 6. **Boiler and pressure vessel standards.** Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A; and 7. **Elevator standards.** Elevator standards adopted pursuant to Title 32, section 15206.	
• **Certification of Inspectors**	**§ 2351 Inspector; 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 thereof, the municipal officers shall annually in the month of April appoint an inspector of buildings, who must be a person ~~skilled in the construction of buildings~~certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the inspector's compensation.	
	§ 2353. Duty to inspect buildings under construction The inspector of buildings shall inspect each ~~new~~ 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 ~~he deems~~the inspector considers necessary~~,~~ concerning the construction of ~~such~~the building so as to render the ~~same~~building safe from the catching and spreading of fire	
	§ 2372. Division of Building Codes and Standards **1. Established.** The Division of Building Codes and Standards is established within the Department of Public Safety, Office of the State Fire Marshal to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6. **2. Staff.** The commissioner may appoint or remove for cause staff of the Division of Building Codes and Standards established under subsection 1, including:	• Technical codes coordinator should be certified in building standards pursuant to 30-A, § 4451, sub-§ 2-A, paragraph E.

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	A. A technical codes coordinator who serves as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to: (1) Providing interpretation of the code for professionals and the general public; and (2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules; B. A training coordinator, whose duties include the establishment of a program, through cooperative agreements with national, regional and state organizations, to provide the building inspector training required by the training and certification committee appointed by the board pursuant to Title 10, section 9723; and C. An office specialist to provide administrative support to the technical codes coordinator, the training coordinator and the board.	
Enforcement	§ 2373. **Enforcement** **1. Code enforcement.** A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall enforce the code. Enforcement may be provided through interlocal agreements with other municipalities or by contractual agreements between municipal, county or regional authorities. Contracts with 3rd-party-certified inspectors may be used in place of local code enforcement officers to enforce this chapter. **2. Building inspectors.** An inspector of buildings shall review applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, enforce compliance with the code and issue certificates of occupancy. **3. Reports of inspections.** An inspector of buildings may accept reports of inspection by agencies or individuals approved by the board. Reports of such inspections must be in writing and be certified by a responsible officer of an approved agency or by the responsible individual. The inspector of buildings is authorized to engage such expert opinion as necessary to report upon unusual technical issues that arise.	• Towns remain responsible for enforcement of the building & energy codes • Once board has adopted a statewide building & energy code, then local towns will enforce it. • Mandatory enforcement for towns with over 2000 residents; enforcement under that number would be optional (those towns with mandatory enforcement are required under current law to have an inspector) • Local code enforcement officers would makes the final call on enforcement issues; state staff would provide interpretations of the code for enforcement purposes. • Phase-in for enforcement provided: towns with more than 2000 residents and no code will have 2 years to comply; towns with a code enforcement program will have 6 months to enforce it. • Enforcement options: in-house enforcement program, or through inter-local agreements with other towns or regional agencies for code enforcement. • Opposition: MMA supports a statewide building code; opposes the implementation plan in the bill; opposes mandatory enforcement of code (state mandate); enforcement is not the central issues and not necessary in this bill as many towns already enforce a code; the patchwork issue can be addressed by streamlining the single set of rule books to use. • Towns that do not want building codes and do not want to be confined by

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
	4. Fees. A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall establish a schedule of building inspection permit fees sufficient to cover the cost of employing an inspector of buildings. **Sec. 18. Staggered effective date for enforcement of Maine Uniform Building and Energy Code.** A municipality that has more than 2,000 residents that has adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes, Title 10, chapter 1103 by **June 1, 2010**. Any municipality with more than 2,000 residents that has not adopted any building code by August 1, 2008 shall begin enforcement of Maine Uniform Building and Energy Code by **January 1, 2012.**	their requirements should not be mandated to do so. • MMA proposed amendment: removes state mandate of municipal enforcement and provides for optional local enforcement by municipalities and a program of certified 3rd party inspectors; and adoption of the code by the new Technical Building Code Board, to be housed within State Planning, as well as a residential contractor licensing board, housed within DPFR, to administer the code once adopted. • Concern regarding the lack of opportunity to weigh in on the changes and harmonization process of the codes. • Proposed amendment from Northeast Energy Efficiency Partnerships: Amend 2373 (1): Each municipality should be required to become an active member of the ICC on or before January, 2010. • Proposed amendment from ME Building Officials and Inspectors Association: o § 2373(3) is not necessary as the IBC already provides a process for special inspections. • Proposed amendment from Maine Indoor Air Quality Council o Municipal code officers or independent inspectors should be required to ensure that the appropriate stamps by licensed professional engineers and architects have been obtained; this will eliminate the time and energy needed by the official to do an independent review or audit of large air/ventilation systems.
• **Funding**	**§ 2374. Uniform Building Codes and Standards Fund** The Uniform Building Codes and Standards Fund is established within the Department of Public Safety to fund the activities of the Division of Building Codes and Standards under this chapter and the activities of the board under Title 10, chapter 1103. Revenue for this fund is provided by the surcharge established by section 2450-A. **§ 2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund** In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103 and the activities of the Division of Building Codes and Standards under chapter 314, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed $450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.	• Funds will go into a dedicated account to support the board and the training; funds will not go to towns.

SUBJECT	LANGUAGE IN LD 2257	ISSUES FROM TESTIMONY
Codes Included in the MUBEC/ Date for Adoption	**Sec. 16. Adoption of Maine Uniform Building and Energy Code.** The Technical Building Codes and Standards Board established by the Maine Revised Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as "the board," shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10, section 9722, in accordance with this section. 1. The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section 9722, subsection 6 **must be composed of the substance of the following**, with administrative and other minor changes to customize the codes for Maine: A. **The 2009 version of the International Building Code**; B. **The 2009 version of the International Existing Building Code**; C. **The 2009 version of the International Residential Code**; D. **The 2009 version of the International Energy Conservation Code**; E. **The model building energy** code adopted pursuant to Title 35-A, section 121 and set forth in Title 10, sections 1415-C and 1415-D and associated rules; and F. The **Maine model radon standard** for new residential construction set forth in Title 25, section 2466 and associated rules. 2. Existing state codes and standards, where applicable, must be referenced in chapter one of the Maine Uniform Building and Energy Code. 3. **The board shall adopt the Maine Uniform Building and Energy Code no later than June 1, 2009**. A. Between **June 1, 2009 and December 31, 2009**, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State. B. The board shall maintain an adoption cycle for future versions of the Maine Uniform Building and Energy Code that is coordinated with the State Fire Marshal's adoption cycle and that does not lapse more than 5 years or one national model code version cycle.	• Proposed amendment from Maine Fire Chiefs Association: amend bill to have more time for the review and adoption process to move forward, to allow for more public input in the process. • Proposed amendment from ME Building Officials and Inspectors Association: o The Board will need more time to adopt the model code than June 2009: the 2009 ICC will not be published until February 2009; and remove the language on the adoption cycle. • Proposed amendment from Maine Indoor Air Quality Council o Amend the bill to include the ASHRAE 62 and ASTM Standard (Model Radon Standard)

SPO Amendment with **voluntary enforcement** for Committee consideration 3.31.2008

Including language from MMA and Sen. Bartlett's LD 2179

Language proposed by SPO highlighted in yellow

Language proposed by MMA & accepted by SPO highlighted in aqua blue

Language derived from Sen. Bartlett's bill LD 2179 highlighted in gray

An Act To Establish a Uniform Building and Energy Code

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

Sec. 1. 5 MRSA §12004-G, sub-§5-A is enacted to read:

5-A.

Building Codes and Standards	Technical Building Codes and Standards Board	Expenses Only	10 MRSA c. 1103

Sec. 2. 10 MRSA §1415-C is amended to read:

§1415-C. Mandatory standards for residential construction

1. Prescriptive standard.

1-A. Performance standards.

2. Exemption. *The provisions of sub-§3 shall not apply to log homes or modular housing units.*

3. Multifamily structuresResidential Buildings. *Effective January 1, 2006 2010, any new construction, remodeling or substantial renovation of a residential building must conform to the Maine Uniform Building and Energy Code set forth in Title 10, chapter 1103. Any new construction or renovation of a conditioned space in any residential building of more than 2 dwelling units built on or after January 1, 2006 but before January 1, 2010 must conform to:*

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. 3. 10 MRSA §1415-D is amended to read:

§1415-D. Mandatory standards for commercial construction

Except as provided in this section, new construction or substantial renovation of any commercial building undertaken after January 1, 2004 *but before January 1, 2010* must conform to ASHRAE Standard 62-2001 and 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, "substantial renovation" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.~~ *Effective January 1, 2010 any new construction, or additions, alterations, renovations or repairs to existing commercial buildings must conform to the Maine Uniform Building and Energy Code set forth in Title 10, chapter 1103.*

1. Construction in anticipation of future sale or rental. Any person who constructs any commercial 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 that are applicable to all reasonably foreseeable uses of the building. [2005, c. 350, §9 (AMD).]

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. [1987, c. 818, §4 (NEW).]

Sec. ~~2~~ 4. 10 MRSA §9707 is enacted to read:

§ 9707. Repeal

This chapter is repealed ~~January~~ *July* 1, 2010.

Sec. ~~3~~ 5. 10 MRSA c. 1103 is enacted to read:

CHAPTER 1103
Maine uniform building and energy code

§ 9721. Definitions

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

1. Board. "Board" means the Technical Building Codes and Standards Board established in