

# MAINE STATE LEGISLATURE

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**Proposed Amendment to LD 2257 Submitted by Representative Sampson**

(Amendment to Proposed Amendment Submitted by SPO that strikes mandatory enforcement)

**Sec. 1. 10 MRSA c. 951-A is enacted to read:**

**CHAPTER 951-A**

**Maine Residential Contractor Licensing**

**§9090-A. Definitions**

1. **Board.** "Board" means the Maine Residential Contractor Licensing Board.
2. **Residential contractor services.** "Residential contractor services" means those services, including home improvement, performed by the residential contractor licensed under this chapter.

**§9090-B. Maine Residential Contractor Licensing Board**

The Residential Contractor Licensing Board, established by Title 5, section 12004-A, subsection ---, and in this chapter called the "board," consists of 5 members appointed by the Governor. Members of said board shall be compensated according to the provisions of Title 5, chapter 379. If the fees to be collected under any of the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of said board shall be entitled to only a pro rata payment for salary in any years in which such fees are insufficient.

Nothing in this chapter may be construed to limit the rights under the Home Construction Contracts law under Title 10, chapter 219-A.

**§9090-C. Composition of board; terms of members.** The members of the board include:

- A. 2 residential contractors, with expertise in the field of residential contracting;
- B. 1 commercial contractor; with expertise in the field of residential contracting;
- C. 1 code enforcement officer; with expertise in the field of residential contracting
- D. 1 public member, as defined in Title 5, section 12004-A, with significant expertise in residential housing building standards

The term of office of the members is 4 years. Appointment of a member must comply with section 8009. A member of the board may be removed for cause by the Governor.

**§9090-D. Meetings; chair; quorum.**

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum.

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### §9090-D. Powers and duties

The board shall administer and enforce the provisions of this chapter. The board shall propose, revise, adopt and enforce rules necessary to carry out this chapter in accordance with the provisions of Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Beginning January 1, 2012, the board has the power to license and set standards of practice for residential contractors in Maine, in order to ensure that residential building contractors build according to the standards provided by the Maine Uniform Building and Energy Code in Title 10, chapter 1103, as well as to ensure that that residential contractors comply with the home construction contract requirements of Title 10, chapter 219-A.

The board has the power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board. The board has the duty to investigate residential contractor complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of a section of this chapter and the violation of rules adopted by the board pursuant to its authority.

### §9090-E. Prohibited practices

**1. Licenses.** Beginning January 1, 2012, a person may not perform residential contractor services, without first obtaining a license from the board as required in this chapter.

**2. Violation of regulations and standards.** A person who violates the standards of the Maine Uniform Building and Energy Code in Title 10, chapter 1103, as determined by the board, is subject to the regulations, standards and penalties authorized under this chapter.

### §9090-F. Investigations; suspensions; revocations

**1. Investigations.** The board is authorized to conduct any inspections and investigations as may be necessary to carry out responsibilities under this chapter. The board is authorized to contract with local governments and private inspection organizations to carry out such inspection functions to the extent not prohibited by federal law, rule or regulation.

### §9090-G. Licenses

The board shall adopt rules governing qualifications for a license under this chapter.

- 1. Licenses required.** Any person who engages in the business of residential contractor services must first obtain a license issued by the board. The board shall, within a reasonable time, issue a license to any person who intends residential contractor services in this State subject to filing and approval of an application. Any person who is licensed to conduct these activities by other state or federal law is exempt from this requirement when the law provides for specific authority to provide a particular service or preempts the requirement for such a license.

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2. **License Fees.** The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes. The license fee pursuant to subchapter 6 may not exceed a base fee of \$X. This fee must accompany each license application. The review and evaluation fees authorized by this section may not exceed the actual cost of the review or evaluation. The fee for any other purpose authorized by this chapter may not exceed \$200. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sen. Bartlett's Amendment with enforcement for Committee consideration 4.1.2008

*New Language highlighted in yellow*

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

*Language proposed by MMA highlighted in aqua blue*

## 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.**

<u>Building</u> Codes and Standards	<u>Technical</u> Building Codes and Standards Board	<u>Expenses</u> Only	<u>10 MRSA c.</u> 1103
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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 structures Residential 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 Title 5, section 12004-G, subsection 5-A.

**2. Maine Uniform Building and Energy Code.** "Maine Uniform Building and Energy Code" means the uniform statewide building and energy code adopted by the board pursuant to this

chapter.

**§ 9722. Technical Building Codes and Standards Board**

**1. Establishment.** The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, is established 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 the fire and safety codes and to provide for training for municipal building inspectors.

**2. Membership.** The board consists of ~~11~~ 12 voting members, appointed by the Governor:

A. The State Fire Marshal or a designee;

B. A fire chief or local fire marshal, recommended by the Maine Fire Chiefs' Association or its successor organization;

C. A municipal code enforcement officer employed by a municipality enforcing the code, 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, 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 has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction;

(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;

L. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers.

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.

**3. 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 board chair is nonvoting except in the case of a tie 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.

**4. 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.

**5. Meetings; quorum.** The board shall meet quarterly and at such other times as the board determines necessary. Five Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

**6. 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

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments, which must require board action within 90 days of filing; and a process to establish an annual adoption cycle; 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(1). 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;

D-1. The Committee shall seek to identify conflicts between the Maine Uniform Building and Energy Code and all other codes and standards referenced in 9725 and develop solutions.

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 officials; 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.

H. Review existing state codes listed in section 9725 and make recommendations to the legislature for changes that would enhance the efficiency and effectiveness of those codes.

I. Review alternative methods of funding for the board, create an equitable source of revenue and report back its recommendations to the Business Research and Economic Development Committee no later than January 1, 2010.

J. Approve methods of energy performance rating for use in generating any consumer information labels that may be required in the marketing and sale of residential and commercial buildings or units within buildings.

## **§ 9723. Training and certification**

**1. Appoint committee; establish requirements.** The board shall appoint a 5-member training and certification committee, referred to in this section as "the committee," to establish the training and certification requirements for municipal building inspectors officials and third party inspectors.

**2. Training program.** The committee shall direct the training coordinator of the Division Office of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building inspectors officials.

**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 officials is fully funded by the State.

## **§ 9724. 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.

## **§ 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~~ the fire and safety codes and standards and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into the fire and safety codes and standards 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, 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.

**Sec. 46.25 MRSA §2351,** as corrected by RR 1995, c. 2, §56, is amended to read:

**§ 2351. Inspector 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 thereof, the municipal officers shall annually in the month of April appoint an ~~inspector of buildings~~ building official, 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~~ building official's compensation. The municipal officers shall define the limits within which the inspector of buildings has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town. Whenever ~~the inspector of buildings~~ building official becomes incapacitated, the municipal officers may appoint or authorize ~~the inspector of buildings~~ building official to appoint a deputy ~~inspector of buildings~~ building official who shall serve until removed by the municipal officers, but in no event beyond the term for which ~~the inspector of buildings~~ building official was appointed. The deputy ~~inspector~~ building official shall perform such duties as may be required of the deputy ~~inspector~~ building official by the ~~inspector~~ building official. The compensation of the deputy ~~inspector~~ building official is determined by the municipal officers.

**Sec. 5 7. 25 MRSA §2353** is amended to read:

**§ 2353. Duty to inspect buildings under construction**

The ~~inspector of buildings~~ building official 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 building official considers necessary, concerning the construction of such ~~the~~ building so as to render the ~~same~~ building safe from the catching and spreading of fire.

**Sec. 6 8. 25 MRSA §2357** is amended to read:

**§ 2357. No occupancy without a certificate; appeal**

Subject to the provisions of Title 10, chapter 951, a ~~new~~ building may not be occupied until the ~~inspector of buildings~~ building official has given a certificate for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and that the same has been built in accordance with section 2353, and so as to be safe from fire. 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 ~~inspector of buildings~~ building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the ~~inspector official~~. [1999, c. 725, §5 (AMD).]

Sec. 79.25 MRSA §2361, as enacted by PL 1985, c. 101, is amended to read:

**§ 2361. Proceedings by municipality**

**1. Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal building ~~inspectors~~ officials and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly ~~promulgated~~ adopted state rules or local ordinances enacted pursuant to ~~chapters 313 to 321~~ this Part and Title 10, chapter 1103; and

**2. Notice.** In any proceeding brought by or against the State ~~which~~ that involves the validity of a municipal ordinance, the municipality ~~shall~~ must be given notice of the proceeding and ~~shall be~~ is entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality ~~which~~ that involves the validity of statute, ordinance or regulation, the Attorney General ~~shall~~ must be served and ~~shall be~~ is made a party to the proceeding and ~~be~~ is entitled to be heard. This section ~~shall apply~~ applies to enforcement of statutes, rules or ordinances enacted pursuant to ~~chapters 313 to 321~~ this Part and Title 10, chapter 1103.

Sec. 8.10.25 MRSA c. 314 is enacted to read:

**CHAPTER 314**  
**Building Codes and Standards**

**§ 2371. 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 Title 5, section 12004-G, subsection 5-A.

**2. Code.** “Code” means the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

**3. Commissioner.** “Commissioner” means the Commissioner of Public Safety.

**4. Inspector of buildings *Building official.*** “~~Inspector of buildings~~” “*Building Official*” means an ~~inspector of buildings~~ *building official* appointed pursuant to section 2351.

**5. Third party inspector.** “Third party inspector” means a person certified by the state to conduct inspections for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

**§ 2372. Division Office of Building Codes and Standards**

**1. Established.** The ~~Division Office~~ 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 Office of Building Codes and Standards established under subsection 1, including:

A. A technical codes coordinator, certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, who serves as the bureau director and 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 non-binding 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. B. An office specialist to provide administrative support to the office technical codes coordinator, the training coordinator and the board.

### **§ 2373. Enforcement Inspection Options**

Municipalities may opt to implement inspections for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 through any of the following means:

1. municipally appointed building officials and code enforcement officers;
2. interlocal agreements with other municipalities sharing the use of certified building officials;
3. contractual agreements with county or regional authorities;
4. reports submitted by certified third party inspectors under independent contractual arrangement with the building owner.

**1. Code enforcement.** A municipality that is required to have an inspector of buildings a building official 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 state certified building 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 certified 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.~~

~~**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 enforcing the Maine Uniform Building and Energy Code.~~

### **§ 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 Office 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.

**Sec. 9 11. 25 MRSA §2450**, as amended by PL 2003, c. 358, §1, is further amended to read:

### **§ 2450. Examinations by Department of Public Safety**

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Department of Public Safety. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450, except as provided in section 2450-A. The fees must be credited to a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

**Sec. 10 11. 25 MRSA §2450-A** is enacted to read:

### **§ 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 Office 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.

**Sec. ~~11~~ 12. 25 MRSA §2466, sub-§5** is enacted to read:

**5. Repeal.** This section is repealed January 1, 2010.

**Sec. ~~12~~ 13. 30-A MRSA §4451, sub-§2-A, ¶E,** as enacted by PL 1991, c. 163, is amended to read:

E. Building standards under chapter 141; chapter 185, subchapter ~~1~~; beginning January 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

**Sec. ~~13~~ 14. 30-A MRSA §4451, sub-§3,** as amended by PL 1997, c. 296, §7 and PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 689, Pt. B, §6, is further amended to read:

**3. Training and certification of code enforcement officers.** In cooperation with the Maine Community College System, the Department of Environmental Protection ~~and~~ the Department of Health and Human Services and the Department of Public Safety, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

**Sec. ~~14~~ 16. 30-A MRSA §4452, sub-§5,** as amended by PL 2007, c. 112, §§4 to 6, is further amended to read:

**5. Application.** This section applies to the enforcement of land use laws and ordinances or rules ~~which~~that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State ~~which~~that is subject to the jurisdiction of the Maine Land Use Regulation Commission;

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;

C. Local ordinances adopted pursuant to Title 22, section 2642;

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;

G. Local land use ordinances adopted pursuant to section 3001;

- H. ~~Local building codes adopted pursuant to sections 3001 and 3007;~~
- I. ~~Local housing codes adopted pursuant to sections 3001 and 3007;~~
- J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3-;
- K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter ~~H~~2;
- L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter ~~III~~3;
- M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428;
- N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;
- O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;
- P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B;
- Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed;
- R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2;
- S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; ~~and~~
- T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; and
- U. The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103.

**Sec. 15 17. 35-A MRSA §121, sub-§3** is enacted to read:

**3. Repeal.** This section is repealed January 1, 2010.

**Sec. 16 18. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 10, section 9722, subsection 4, initial appointments made to the Technical Building Codes and Standards Board are as set out in this section.

1. The appointments made under Title 10, section 9722, subsection 2, paragraphs B, E, H and K are for a term of 2 years.

2. The appointments made under Title 10, section 9722, subsection 2, paragraphs C, F and I are for a term of 3 years.

**Sec. 47 19. 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, *commencing with the 2009 edition;*

B. The ~~2009 version of the~~ International Existing Building Code, *commencing with the 2009 edition;*

C. The ~~2009 version of the~~ International Residential Code, *commencing with the 2009 edition;*

D. The ~~2009 version of the~~ International Energy Conservation Code, *commencing with the 2009 edition;*

*E. ASHRAE Standards 62.1, 62.2 and 90.1; and*

~~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~~ *January 1, 2010.*

A. Between ~~June 1, 2009~~ *January 1, 2010* and ~~December 31, 2009~~ *July 1, 2010*, 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.

**Sec. 18 20. Appointments; convening of Technical Building Codes and Standards Board.** The Governor shall make the appointments pursuant to the Maine Revised Statutes, Title 10, section 9722 subsection 2 in sufficient time for the Governor to convene the first meeting of the Technical Building Codes and Standards Board by November 1, 2008.

**Sec. 18 21. 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~~ July 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~~ July 1, 2012.

### SUMMARY

This bill defines a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code, that will replace all building and energy codes adopted by state agencies and municipalities.

It establishes the Technical Building Codes and Standards Board in the Department of Public Safety, which will amend, update and adopt the code. The board will also identify and resolve conflicts between the code and other building-related codes *the fire and safety codes*, publish conflict resolutions on the Internet within 30 days, establish a process for considering amendments suggested by municipalities and citizens and ensure that training and certification for municipal building inspectors is readily available, affordable and accessible. The board may appoint technical advisory groups to make recommendations on specific code issues.

It establishes the ~~Division Office~~ of Building Codes and Standards in the Department of Public Safety ~~in the Office of the State Fire Marshal~~ to provide administrative and technical support. The division will include a technical codes coordinator to provide technical support to the board, ~~a training coordinator to establish a training program for building inspectors~~ and an office specialist to provide administrative support for the board and division staff. *An unfunded training coordinator position exists in the State Planning Office and will be funded by this program.*

Enforcement of the code will be carried out by local building official in municipalities of more than 2,000 residents, *and inspections may be implemented either through appointed municipal officials and code enforcement officers or through certified third party inspectors independently contracted by the building owner.* These municipalities are considered the authority having jurisdiction over matters of local code enforcement. Enforcement of the code in municipalities with fewer than 2,000 residents is optional.

Funding for the board, the ~~division office~~ and training expenses for building inspectors will be provided from a surcharge on fire and life safety code plan review fees through the Office of State Fire Marshal and standards plan reviews for commercial and public buildings. All funding is to be deposited into a Department of Public Safety dedicated revenue fund called the Uniform Building Codes and Standards Fund.

**Proposed Amendment to LD 2257 Submitted by Representative Sampson**

(Amendment to Proposed Amendment Submitted by SPO that strikes mandatory enforcement)

**Sec. 1. 10 MRSA § 8001-A, sub-§ 10 is enacted to read:**

**10. Maine Residential Contractor Licensing Board**

**Sec. 2. 32 MRSA c. 50 is enacted to read:**

**CHAPTER 50**

**Maine Residential Contractor Licensing**

**§3510. Definitions**

1. **Board.** "Board" means the Maine Residential Contractor Licensing Board.
2. **Residential contractor services.** "Residential contractor services" means those services, including home improvement, performed by the residential contractor licensed under this chapter.

**§3511. Maine Residential Contractor Licensing Board**

The Residential Contractor Licensing Board, established by Title 5, section 12004-A, subsection ---, and in this chapter called the "board," consists of 5 members appointed by the Governor. Members of said board shall be compensated according to the provisions of Title 5, chapter 379. If the fees to be collected under any of the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of said board shall be entitled to only a pro rata payment for salary in any years in which such fees are insufficient.

The Home Construction Contract Act, Title 10, chapter 219-A, and the Unfair Trade Practices Act, 5 MRSA Chapter 10, shall supplement the provisions of this chapter.

**§3512. Composition of board; terms of members.** The members of the board include:

- A. 2 residential contractors, with expertise in the field of residential contracting;
- B. 1 commercial contractor; with expertise in the field of residential contracting;
- C. 1 code enforcement officer; with expertise in the field of residential contracting
- D. 1 public member, as defined in Title 5, section 12004-A, with significant expertise in residential housing building standards

The term of office of the members is 4 years. Appointment of a member must comply with section 8009. A member of the board may be removed for cause by the Governor.

## **Proposed Amendment to LD 2257 Submitted by Representative Sampson**

### **§3513. Meetings; chair; quorum.**

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum.

### **§3514. Powers and duties**

The board shall administer and enforce the provisions of this chapter. The board shall propose, revise, adopt and enforce rules necessary to carry out this chapter in accordance with the provisions of Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The board shall comply with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV in enforcing this chapter.

Beginning January 1, 2012, the board shall license residential contractors in Maine in order to ensure that residential building contractors build according to the standards provided by the Maine Uniform Building and Energy Code in Title 10, chapter 1103, as well as to ensure that that residential contractors comply with the home construction contract requirements of Title 10, chapter 219-A.

The board has the power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board. The board has the duty to investigate residential contractor complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of a section of this chapter and the violation of rules adopted by the board pursuant to its authority.

### **§9090-E. Prohibited practices**

**1. Licenses.** Beginning January 1, 2012, a person may not perform residential contractor services, without first obtaining a license from the board as required in this chapter.

**2. Violation of regulations and standards.** A person who violates the standards of the Maine Uniform Building and Energy Code in Title 10, chapter 1103, as determined by the board, is subject to the regulations, standards and penalties authorized under 10 MRSA § 8003, sub-§ 5.

### **§9090-F. Investigations; suspensions; revocations**

- 1. Investigations.** The board is authorized to conduct any inspections and investigations as may be necessary to carry out responsibilities under this chapter. The board is authorized to contract with local governments and private inspection

## Proposed Amendment to LD 2257 Submitted by Representative Sampson

organizations to carry out such inspection functions to the extent not prohibited by federal law, rule or regulation.

2. **Suspensions; revocations.** The board is authorized to suspend and revoke residential contractor licenses pursuant to its authority in 10 MRSA § 8003, sub-§ 5.

### §9090-G. Violations; penalties

1. **Unlicensed practice.** A person, firm or corporation who violates section 9090-E is subject to the provisions of Title 10, section 8003-C.

### §9090-H. Licenses

The board shall adopt rules governing qualifications for a license under this chapter.

1. **Licenses required.** Any person who engages in the business of residential contractor services must first obtain a license issued by the board. The board shall, within a reasonable time, issue a license to any person who intends to perform residential contractor services in this State subject to filing and approval of an application. Any person who is licensed to conduct these activities by other state or federal law is exempt from this requirement when the law provides for specific authority to provide a particular service or preempts the requirement for such a license.

### Sec. 3. Initial Appointments to the Maine Residential Contractor Licensing Board.

Beginning January 1, 2011, the Governor shall appoint members to the Maine Residential Contractor Licensing Board, established pursuant to 32 MRSA, chapter 50, 1 for a term of 1 year, 2 for a term of 2 years, and 2 for a term of 3 years.

### Summary

This amendment establishes the Maine Residential Contractor Licensing Board as an affiliated board within the Department of Professional and Financial Regulation. Beginning January 1, 2012, the board will be responsible for issuing licenses to residential contractors in Maine in order to ensure that residential building contractors build according to the standards provided by the Maine Uniform Building and Energy Code in Title 10, chapter 1103, as well as to ensure that that residential contractors comply with the home construction contract requirements of Title 10, chapter 219-A.

**MINORITY REPORT  
SUMMARY**

This amendment is the minority report of the committee and it does the following:

1. It provides for a mandatory statewide building and energy code with voluntary enforcement by municipalities;
2. It provides for the Technical Building Codes and Standards Board to be located within the Department of Public Safety with the authority to resolve conflicts only between the code and the fire and life safety codes;
3. It provides for the Bureau of Building Codes and Standards to be located as an affiliated board within the Department of Professional and Financial Regulation.
4. It requires the Board to adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter
5. It strikes any reference to the Energy Efficiency Building Standards

# Majority Report

Committee: BRED  
LA: NLH  
LR (item):  
New Title?:  
Add Emergency?:  
Date: April 2, 2008

File Name: G:\COMMITTEES\BEC\Amendmen\123rd2nd\352302.doc

## COMMITTEE AMENDMENT TO LD 2257, AN ACT TO ESTABLISH A UNIFORM BUILDING AND ENERGY CODE

**Amend the bill by inserting the following new sections after Section 2 and before Section 3 of the bill:**

**Sec. 3. 10 MRSA §1415-C, sub-§ § 3-A and B are enacted to read:**

### **§1415-C. Mandatory standards for residential construction**

**3-A. Residential Buildings.** Effective July 1, 2010, any new construction, remodeling or substantial renovation of a residential building must conform to the Maine Uniform Building and Energy Code, established in chapter 1103, and are subject to the requirements of that chapter as well as the requirements of Title 25 chapter 314.

**3-B. Sunset.** This section is repealed effective January 1, 2011.

**Sec. 4. 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 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 July 1, 2010, any new construction of commercial buildings, and additions, alterations or substantial renovation or repairs to existing commercial buildings must conform to the Maine Uniform Building and Energy Code, established in chapter 1103, and are subject to the requirements of that chapter as well as the requirements of Title 25 chapter 314.

**3-B. Sunset.** This section is repealed effective January 1, 2011.

Further amend the bill in Section 2, line 10, page 2 of the bill by striking "January" and inserting 'July'

Further amend the bill by striking everything after Section 2 of the bill before the summary and inserting the following new sections:

Sec. 3. 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 Title 5, section 12004-G, subsection 5-A.

**2. Maine Uniform Building and Energy Code.** “Maine Uniform Building and Energy Code” means the uniform statewide building and energy code adopted by the board pursuant to this chapter.

**§ 9722. Technical Building Codes and Standards Board**

**1. Establishment.** The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, is established to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and the fire and life safety codes in Title 25 sections 2452 and 2465, as well as to provide for training for municipal building inspectors.

**2. Membership.** The board consists of 11 voting members, appointed by the Governor:

A. The State Fire Marshal or a designee, or a fire chief, recommended by the Maine Fire Chiefs’ Association or its successor organization;

B. 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, or 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;

C. A residential builder recommended by a statewide or regional association of home builders and remodelers;

D. A commercial builder recommended by a statewide association of general contractors;

E. 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;

F. A structural engineer licensed in the State, recommended by a statewide association of structural engineers;

G. 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;

H. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who has experience or expertise in the design or implementation of energy codes, or in the application of energy efficiency measures in residential or commercial construction;

I. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and

J. A lumber material dealer or supplier, recommended by a statewide association of lumber dealers in Maine.

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.

**3. 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 board chair is nonvoting except in the case of a tie 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.

**4. 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.

**5. Meetings; quorum.** The board shall meet quarterly and at such other times as the board determines necessary. Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

**6. Duties and powers.** In addition to other duties set forth in this chapter, the board shall:

A. Adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter. 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

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments, and a process to establish an annual adoption cycle; 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 Fire safety codes and standards adopted pursuant to Title 25, sections 2452. 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;

D-1. On December 31<sup>st</sup> of each calendar year beginning in 2010, the board shall report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for the following: proposed conflict resolutions for codes and standards referenced in section 9725, sub-sections 2 through 7; proposals to improve the efficiency and effectiveness of those codes; as well as alternative methods of funding for the board, create an equitable source of revenue.

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 officials; 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.

- H. Approve methods of energy performance rating for use in generating any consumer information labels that may be required in the marketing and sale of residential and commercial buildings or units within buildings.

**§ 9723. Training and certification**

**1. Appoint committee; establish requirements.** The board shall appoint a 5-member training and certification committee, referred to in this section as “the committee,” to establish the training and certification requirements for municipal building officials, local code enforcement officers and third party inspectors.

**2. Training program.** The committee shall direct the training coordinator of the Bureau of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and third party 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 officials is fully funded by the State.

**§ 9724. Application**

**1. Limitations on home rule authority.** This chapter provides express limitations on municipal home rule authority. Beginning July 1, 2010, 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. 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 July 1, 2012. Municipalities shall enforce the code by implementing inspections that comply with the code using any of the inspection options in Title 25 section 2373.

**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 that sets forth provisions for local enforcement of building codes

that complies with Title 25, section 2466. The requirements of this sub-section do not apply to log homes or modular housing, as defined in chapter 951.

**§ 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 the fire and safety codes and standards and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into the fire and safety codes and standards 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, 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

Sec. 4. 25 MRSA §2351 is amended to read:

**§ 2351. ~~Inspector~~ 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 thereof, the municipal officers shall annually in the month of April appoint an inspector of buildings building official, who must be a person skilled in the construction of buildingscertified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the inspector's building official's compensation. The municipal officers shall define the limits within which the inspector of buildings has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town. Whenever the inspector of buildings building official becomes incapacitated, the municipal officers may appoint or authorize the inspector of buildings building official to appoint a deputy inspector of buildings building official who shall serve until removed by the municipal officers, but in no event beyond the term for which the inspector of buildings~~

building official was appointed. The deputy ~~inspector~~ building official shall perform such duties as may be required of the deputy ~~inspector~~ building official by the ~~inspector~~ building official. The compensation of the deputy ~~inspector~~ building official is determined by the municipal officers.

**Sec. 5. 25 MRSA §2353** is amended to read:

**§ 2353. Duty to inspect buildings under construction**

The ~~inspector of buildings~~ building official 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 building official considers necessary, concerning the construction of ~~such~~ the building so as to render the ~~same~~ building safe from the catching and spreading of fire.

**Sec.6. 25 MRSA §2357** is amended to read:

**§ 2357. No occupancy without a certificate; appeal**

Subject to the provisions of Title 10, chapter 951, a new building may not be occupied until the ~~inspector of buildings~~ building official has given a certificate for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and that the same has been built in accordance with section 2353, and so as to be safe from fire. 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 ~~inspector of buildings~~ building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the ~~inspector official~~.

**Sec. 7. 25 MRSA §2361** is amended to read:

**§ 2361. Proceedings by municipality**

**1. Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal building ~~inspectors~~ officials and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly promulgated ~~adopted~~ state rules or local ordinances enacted pursuant to ~~chapters 313 to 321~~ this Part and Title 10, chapter 1103; and

**2. Notice.** In any proceeding brought by or against the State ~~which~~ that involves the validity of a municipal ordinance, the municipality ~~shall~~ must be given notice of the proceeding and ~~shall be~~ is entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality ~~which~~ that involves the validity of statute, ordinance or