

**LPC *combined* Subcommittees**  
**on**  
**LPC Subcommittee**  
**on**  
**Labor, Utilities,**  
**Natural Resources**  
**&**  
**Economic Development**  
***and***  
**Transportation and**  
**State & Local Government**

*(Bills in order of Committee of jurisdiction)*

EUT Sponsor: Rep. Fitts of Pittsfield

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

**Resolve, Regarding Legislative Review of Portions of Chapter 895:  
Underground Facility Damage Prevention Requirements, a Major  
Substantive Rule of the Public Utilities Commission**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

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

**Sec. 1 Adoption. Resolved:** That final adoption of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

**SUMMARY**

This resolve provides for legislative review of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a major substantive rule of the Public Utilities Commission.

LCRED Sponsor: Rep. Prescott of Topsham

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## An Act To Create Efficiencies in the Administration and Enforcement of the Maine Uniform Building and Energy Code

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

**Sec. 1. 5 MRSA §948, sub-§1, ¶L**, as amended by PL 2009, c. 317, Pt. A, §1, is further amended to read:

L. Director, Maine Emergency Medical Services; and

**Sec. 2. 5 MRSA §948, sub-§1, ¶M**, as enacted by PL 2009, c. 317, Pt. A, §1, is amended to read:

M. Director, Bureau of Consolidated Emergency Communications; and

**Sec. 3. 5 MRSA §948, sub-§1, ¶N**, as enacted by PL 2009, c. 317, Pt. A, §1, is repealed.

**Sec. 4. 10 MRSA §9042, sub-§3**, as amended by PL 2005, c. 344, §19, is further amended to read:

**3. Exemption.** Notwithstanding the provisions of Title 25, section ~~2357~~2357-A and Title 30-A, section 4358, new manufactured housing that is manufactured, brokered, distributed, sold, installed or serviced in compliance with this chapter is exempt from all state or other political subdivision codes, standards, rules or regulations that regulate the same matters. A building permit or certificate of occupancy may not be delayed, denied or withheld on account of any alleged failure of new manufactured housing to comply with any code, standard, rule or regulation from which the new manufactured housing is exempt under this subsection.

**Sec. 5. 10 MRSA §9722, sub-§1**, as enacted by PL 2007, c. 699, §6, is amended to read:

**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, Office of the State Fire Marshal, 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 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors.

**Sec. 6. 10 MRSA §9723, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended to read:

**2. Training program standards; implementation.** The committee shall direct the training coordinator of the ~~Bureau~~Division 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 3rd-party inspectors. ~~The Executive Department, State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A, division~~ shall implement, or cause to be implemented, the training and certification program established under this chapter.

**Sec. 7. 25 MRSA §2351-A, first ¶**, as enacted by PL 2009, c. 261, Pt. B, §2, is amended to read:

In every town and city of more than ~~2,000~~4,000 inhabitants, and in every town of ~~2,000~~4,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint a building official, who must be a person certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the building official's compensation. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers.

**Sec. 8. 25 MRSA §2357-A, first ¶**, as amended by PL 2011, c. 365, §7, is further amended to read:

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

**Sec. 9. 25 MRSA §2371, sub-§3**, as enacted by PL 2007, c. 699, §11, is repealed.

**Sec. 10. 25 MRSA §2371, sub-§5-A** is enacted to read:

**5-A. Division.** "Division" means the Division of Building Codes and Standards established in section 2372.

**Sec. 11. 25 MRSA §2371, sub-§6**, as amended by PL 2011, c. 365, §9, is further amended to read:

**6. Third-party inspector.** "Third-party inspector" means a person certified by the State to conduct inspections under Title 30-A, section 4451 for compliance with the code. A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any building for which the 3rd-party inspector issues an inspection report pursuant to section 2373 and may not ~~serve as a 3rd party inspector in any municipality where that 3rd party inspector has been~~ appointed as a building official ~~or code enforcement officer.~~

**Sec. 12. 25 MRSA §2372**, as enacted by PL 2007, c. 699, §11, is amended to read:

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

**1. Established.** The ~~Bureau~~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 ~~bureau~~division, 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 division director and 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 nonbinding 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; and

B. An office specialist to provide administrative support to the division and the board.

**Sec. 13. 25 MRSA §2373, sub-§4**, as enacted by PL 2007, c. 699, §11, is amended to read:

**4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in section ~~2357~~2357-A that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

**Sec. 14. 25 MRSA §2374**, as amended by PL 2009, c. 213, Pt. M, §3, is further amended to read:

### **§ 2374.Uniform Building Codes and Standards Fund**

The Uniform Building Codes and Standards Fund, referred to in this section as "the fund," is established within the Department of Public Safety to fund the activities of the division under this chapter and the activities of the board under Title 10, chapter 1103 ~~and the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A~~. Revenue for this fund is provided by the surcharge established by section 2450-A. The Department of Public Safety ~~and the Executive Department, State Planning Office~~ shall ~~together~~ determine an amount to be transferred annually from the fund for training and certification under Title 30-A, section 4451, subsection 3-A to

the Maine Code Enforcement Training and Certification Fund established in Title 30-A, section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.

**Sec. 15. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is amended 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 Bureau~~ Division of Building Codes and Standards under chapter 314 ~~and the activities of the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A~~, 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. 16. 25 MRSA §2901**, as amended by PL 2009, c. 317, Pt. E, §3, is further amended to read:

**§ 2901. Department; commissioner**

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Bureau of Highway Safety, the Maine Drug Enforcement Agency, Maine Emergency Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated Emergency Communications, ~~the Bureau of Building Codes and Standards and the Gambling Control Unit.~~

**Sec. 17. 25 MRSA §2902, sub-§10**, as enacted by PL 2009, c. 317, Pt. E, §8, is amended to read:

**10. Maine Emergency Medical Services.** The Maine Emergency Medical Services, which is under the direction of the Director of Maine Emergency Medical Services; and

**Sec. 18. 25 MRSA §2902, sub-§11**, as enacted by PL 2009, c. 317, Pt. E, §9, is repealed.

**SUMMARY**

The purpose of this bill is to create efficiencies in the administration and enforcement of the Maine Uniform Building and Energy Code, primarily by abolishing the Department of Public Safety, Bureau of Building Codes and Standards and moving its authority and responsibilities to a new division

created in the Office of the State Fire Marshal. This bill also corrects cross-references and inconsistencies in the threshold for municipal populations to which the provisions of the Maine Uniform Building and Energy Code apply.