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An Act To Modify the Requirements for Municipal Code Enforcement Officer Training

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

Sec. 1. 5 MRSA §3305, sub-§1, ¶M, as amended by PL 2009, c. 213, Pt. M, §1, is repealed.

Sec. 2. 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 12004G, subsection 5A 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 and, in conjunction with the Maine Community College System, to provide for training for municipal building officials, local code enforcement officers and 3rdparty inspectors.

Sec. 3. 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 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 3rdparty inspectors. ~~The Executive Department, State Planning Office, pursuant~~Pursuant to Title 30A, section 4451, subsection 3A, the Maine Community College System shall implement the training program and the Department of Professional and Financial Regulation shall implement the certification program established under this chapter.

Sec. 4. 20-A MRSA §12704, sub-§6, as enacted by PL 1985, c. 695, §11, is amended to read:

6. Special training and education. ~~Provide~~Providing, directly or through contractual or other arrangements, remedial and special training and education programs for disadvantaged and handicapped persons, designed to enable them to make maximum use of their aptitudes and abilities and achieve meaningful employment and economic self-sufficiency; ~~and~~

Sec. 5. 20-A MRSA §12704, sub-§7, as enacted by PL 1985, c. 695, §11 and amended by PL 1997, c. 530, Pt. A, §34 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

7. Temporary Assistance for Needy Families Program. In cooperation with the Department of Health and Human Services, Division of Welfare Employment, ~~provide~~providing, directly or through contractual or other arrangements, preparatory, educational and training programs for recipients of Temporary Assistance for Needy Families, designed to enable them to achieve meaningful employment and economic self-sufficiency-; and

Sec. 6. 20-A MRSA §12704, sub-§8 is enacted to read:

8. Municipal building officials, local code enforcement officers and 3rdparty inspectors. Pursuant to Title 30A, section 4451, subsection 3A, administering a program of training for municipal building officials, local code enforcement officers and 3rdparty inspectors.

Sec. 7. 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 bureau under this chapter and the activities of the board under Title 10, chapter 1103 and the ~~Executive Department, State Planning Office~~ Maine Community College System and the Department of Professional and Financial Regulation under Title 30A, section 4451, subsection 3A. Revenue for this fund is provided by the surcharge established by section 2450A. The Department of Public Safety, ~~the Maine Community College System and the Executive Department, State Planning Office~~ Department of Professional and Financial Regulation shall together determine an amount to be transferred annually from the fund for training and certification under Title 30A, section 4451, subsection 3A to the Maine Code Enforcement Training and Certification Fund established in Title 30A, section 4451, subsection 3B. 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. 8. 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, the activities of the Bureau of Building Codes and Standards under chapter 314 and the activities of the ~~Executive Department, State Planning Office~~ Maine Community College System and the Department of Professional and Financial Regulation under Title 30A, section 4451, subsection 3A, 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. 9. 30-A MRSA §4215, sub-§4, as amended by PL 2009, c. 213, Pt. M, §4, is further amended to read:

4. Fees. The plumbing inspector shall issue any permit under this section upon receipt and approval of a completed application form as prescribed by the commissioner and payment by the applicant of the fee established by the municipality. The fee must be at least the minimum amount determined by rule of the department. One-quarter of the amount of the minimum fee must be paid through the department to the Treasurer of State to be maintained as a permanent fund and used by the department to implement its subsurface wastewater disposal rules, to administer the receipt and collation of completed permits and

to issue plumbing permit labels to the municipality and by the ~~State Planning Office~~ Maine Community College System and the Department of Professional and Financial Regulation for training and certification of local plumbing inspectors. The department and ~~the State Planning Office~~ Maine Community College System and the Department of Professional and Financial Regulation shall together determine an amount to be transferred annually by the Treasurer of State for training and certification of local plumbing inspectors to the Maine Code Enforcement Training and Certification Fund established in section 4451, subsection 3B. The remainder of the fee must be paid to the treasurer of the municipality.

Sec. 10. 30-A MRSA §4221, sub-§2, as amended by PL 1997, c. 683, Pt. B, §15 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

2. Certification requirements. A person may not hold the office of plumbing inspector unless currently certified as qualified by the ~~State Planning Office~~ Department of Professional and Financial Regulation pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the District Court as provided for in section 4451.

Sec. 11. 30-A MRSA §4301, sub-§5-C is enacted to read:

5-C. Department. "Department" means the Department of Professional and Financial Regulation.

Sec. 12. 30-A MRSA §4451, as amended by PL 2009, c. 213, Pt. M, §§5 to 9 and c. 261, Pt. A, §14, is further amended to read:

§ 4451. Training and certification for code enforcement officers

1. Certification required; exceptions. A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the ~~office~~ department, except that:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section;

B. Whether or not any extension is available under paragraph A, the ~~office~~ department may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual;

C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and

D. An individual whose certification has expired or is about to expire may be temporarily authorized in writing by the ~~office~~ department to extend that individual's certification for a period not to exceed 12 months in cases where the necessary training or examination is suspended under subsection 3B, paragraph E.

2. Penalty. Any municipality that violates this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

2-A. Code enforcement officer; definition and duties. As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- A. Shoreland zoning under Title 38, chapter 3, subchapter ~~H1~~, article 2B;
- B. Comprehensive planning and land use under Part 2, Subpart ~~VIA6A~~;
- C. Internal plumbing under chapter 185, subchapter ~~HH3~~;
- D. Subsurface wastewater disposal under chapter 185, subchapter ~~HH3~~; and
- E. Building standards under chapter 141; chapter 185, subchapter 1; beginning June 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

3. Training and certification of code enforcement officers. In cooperation with code enforcement officer professional associations, the ~~Maine Community College System~~department, the Department of Environmental Protection, the Department of Health and Human Services and the Department of Public Safety, except as otherwise provided in paragraph H, the ~~office~~Maine Community College System shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic training in the technical and legal aspects of code enforcement necessary for certification. The basic training program must include training to provide familiarity with the laws and ordinances related to the structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures and enforcement techniques.

H. If funding is not available to support the training and certification program authorized under this subsection, the ~~office~~Maine Community College System shall discontinue training and the department shall discontinue certification activities related to laws and ordinances referenced in subsection 2A, paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter 375, subchapter 2A a program to register code enforcement officers that meet training and education qualifications. The ~~office~~department shall publish the list of persons registered for code enforcement who have submitted evidence of required qualifications. Persons registered under this paragraph must meet the requirements for training and certification under this subchapter. The ~~office~~Maine Community College System and the department shall consult with the Department of Health and Human Services for the purposes of carrying out training and certification activities related to laws and ordinances referenced in subsection 2A, paragraphs C and D. Within one month of discontinuation of training and certification under this paragraph, the ~~office~~Maine Community College System and the department shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters a recommendation for funding the training and certification program or for further changes in program requirements.

3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the ~~office~~Maine Community College System shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rdparty inspectors and the department shall certify the municipal building officials, local code enforcement officers and 3rdparty inspectors.

3-B. Maine Code Enforcement Training and Certification Fund. The Maine Code Enforcement Training and Certification Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support training and certification programs administered by the ~~office~~Maine Community College System and the department for code enforcement officers, local plumbing inspectors, municipal building officials and 3rdparty inspectors in accordance with this subchapter.

A. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in section 4215, subsection 4 for training and certifying local plumbing inspectors must be transferred to the fund.

B. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in Title 25, section 2374 for training and certifying municipal building officials, local code enforcement officers and 3rdparty inspectors must be transferred to the fund.

C. The ~~office~~Maine Community College System and the department shall place in the fund any money it ~~receives~~the Maine Community College System and the department receive from grants to support the requirements of this subchapter.

D. Funds related to code enforcement training and certification may be expended only in accordance with allocations approved by the Legislature and solely for the administration of this subchapter. Any balance remaining in the fund at the end of any fiscal year may not lapse but must be carried forward to the next fiscal year.

E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the ~~office~~Maine Community College System and the department may suspend all or reduce the level of training and certification activities.

4. Examination. The ~~office~~department shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The ~~office~~department may conduct additional examinations to carry out the purposes of this subchapter.

5. Certification standards. The ~~office~~department shall adopt routine technical rules under Title 5, chapter 375, subchapter 2A to establish the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2A, in addition to general standards that apply to all code enforcement officers.

6. Certification; terms; revocation. The officedepartment shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The officedepartment shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6year certification period.

A. The District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

(1) The code enforcement officer has practiced fraud or deception;

(2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

(3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

7. Other professions unaffected. This subchapter may not be construed to affect or prevent the practice of any other profession.

Sec. 13. 30-A MRSA §4453, first ¶, as enacted by PL 1997, c. 296, §9, is amended to read:

The officedepartment shall establish certification standards and a program to certify familiarity with court procedures for the following individuals:

Sec. 14. Transition provisions. The following provisions govern the transition of the training of municipal building officials, local code enforcement officers and 3rdparty inspectors from the Executive Department, State Planning Office to the Maine Community College System.

1. The Maine Community College System is the successor in holding the powers, duties and functions of the training of municipal building officials, local code enforcement officers and 3rd-party inspectors formerly held by the Executive Department, State Planning Office.

2. All existing rules, regulations and procedures concerning the training of municipal building officials, local code enforcement officers and 3rdparty inspectors in effect, in operation or adopted in or by the Executive Department, State Planning Office or any of its administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts concerning the training of municipal building officials, local code enforcement officers and 3rdparty inspectors currently in effect in the Executive Department, State Planning Office continue in effect.

4. Any positions authorized and allocated concerning the training of municipal building officials, local code enforcement officers and 3rdparty inspectors subject to the personnel laws to the Executive Department, State Planning Office are transferred to the Maine Community College System and may continue to be authorized.

5. All records, property and equipment previously involved in the training of municipal building officials, local code enforcement officers and 3rdparty inspectors belonging to or allocated for the use of the Executive Department, State Planning Office become, on the effective date of this Act, part of the property of the Maine Community College System.

Sec. 15. Transition provisions. The following provisions govern the transition of the certification of municipal building officials, local code enforcement officers and 3rdparty inspectors from the Executive Department, State Planning Office to the Department of Professional and Financial Regulation.

1. The Department of Professional and Financial Regulation is the successor in holding the powers, duties and functions of municipal building officials, local code enforcement officers and 3rdparty inspectors certification formerly held by the Executive Department, State Planning Office.

2. All existing rules, regulations and procedures concerning certification for municipal building officials, local code enforcement officers and 3rdparty inspectors in effect, in operation or adopted in or by the Executive Department, State Planning Office or any of its administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts concerning certification for municipal building officials, local code enforcement officers and 3rdparty inspectors currently in effect in the Executive Department, State Planning Office continue in effect.

4. Any positions authorized and allocated concerning certification for municipal building officials, local code enforcement officers and 3rdparty inspectors subject to the personnel laws to the Executive Department, State Planning Office are transferred to the Department of Professional and Financial Regulation and may continue to be authorized.

5. All records, property and equipment previously involved in certification for municipal building officials, local code enforcement officers and 3rdparty inspectors belonging to or allocated for the use of the Executive Department, State Planning Office become, on the effective date of this Act, part of the property of the Department of Professional and Financial Regulation.

SUMMARY

This bill transfers the responsibility to train municipal code enforcement officers from the Executive Department, State Planning Office to the Maine Community College System and transfers the responsibility to certify municipal code enforcement officers from the State Planning Office to the Department of Professional and Financial Regulation.