

First Extraordinary Session, 2005

SENATE BILL NO. 44

BY SENATOR HOLLIS

SAFETY REGULATIONS. Establishes a state uniform construction code. (gov sig)

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AN ACT

To enact R.S. 22:1407(J) and Part IV-B of Chapter 8 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1730.21 through 1730.39, and to repeal Part IV-A of Chapter 8 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1725 through 1730.1, relative to state building codes; to provide for public policy of codes; to provide for enforcement; to provide for appointment of building official; to provide for adoption of codes; to provide for the creation of the Louisiana Building Codes Council; to provide for construction of farm structures; to provide for mandamus and injunctive relief; to provide for agreements with other governmental entities; to provide for council's code adoption authority; to provide for adoption of emergency wind and flood provisions; to provide for construction of industrial facilities; to provide for applicable codes for inspections; to provide for application and issuance of certificates of registration; to provide for revocation authority and injunctive relief; to provide for continuing education; to provide for authority of state fire marshal; to repeal the current state uniform construction code; to provide for reduced rates or discounts on insurance premiums for insureds who comply with the state uniform construction code; and to

1 provide for related matters.

2 Be it enacted by the Legislature of Louisiana:

3 Section 1. R.S. 22:1407(J) and Part IV-B of Chapter 8 of Title 40 of the Louisiana
4 Revised Statutes of 1950, comprised of R.S. 40:1730.21 through 1730.39, are hereby enacted
5 to read as follows:

6 §1407. Rate filing

7 * * *

8 **J. Any insurer who makes application to the Louisiana Rating**
9 **Commission for a rate filing shall provide in their application details as to what**
10 **discount or reduced rate will be given to insureds who comply with the State**
11 **Uniform Construction Code.**

12 * * *

13 **PART IV-B. STATE UNIFORM CONSTRUCTION CODE**

14 **§1730.21. Public policy for state uniform construction code**

15 **A. The public policy of Louisiana is to maintain reasonable standards**
16 **of construction in buildings and other structures in the state consistent with the**
17 **public health, safety, and welfare of its citizens.**

18 **B. This Part is enacted to enable the state of Louisiana to promulgate a**
19 **state uniform construction code to govern the construction, reconstruction,**
20 **alteration and repair of buildings and other structures and the installation of**
21 **mechanical devices and equipment therein. The state uniform construction code**
22 **shall establish uniform performance standards providing reasonable safeguards**
23 **for health, safety, welfare, comfort and security of the residents of this state who**
24 **are occupants and users of buildings, balanced with affordability, and will**
25 **provide for the use of modern methods, devices, materials, and techniques.**

26 **C. To clarify the intent of the legislature and address questions which**
27 **might arise or have arisen with respect to provisions of the nationally known**
28 **codes which have been or are in place, only those portions or provisions of the**
29 **nationally known building and safety codes which relate to building standards**

1 and safety are binding upon a state or local governmental entity or agency
2 which adopts the building and safety codes authorized or required by this Part.

3 D. To further clarify the intent of the legislature, this Part continues to
4 apply to a person who may act under authority of the Department of Public
5 Safety and Corrections and that the allocation of inspection duties among local
6 officials is not dictated by this Part but remains a matter for the local authority.

7 E. To secure these purposes, the Louisiana State Uniform Construction
8 Code Council shall certify a person performing building codes enforcement
9 including building officials, plans reviewers and inspectors.

10 §1730.22. Louisiana State Uniform Construction Code Council; membership;

11 function of council; meeting requirements

12 A. The Louisiana State Uniform Construction Code Council, hereinafter
13 referred to as the "council," is hereby created. Each member of the council
14 shall be appointed by the governor, subject to Senate confirmation, for a term
15 of three years and until a successor is appointed and qualifies. The council shall
16 consist of nineteen members composed of:

17 (1) The chairperson of the House Commerce Committee or designee.

18 (2) The chairperson of the Senate Commerce, Consumer Protection and
19 International Affairs Committee or designee.

20 (3) A representative of the Louisiana Chapter of the American Institute
21 of Architects.

22 (4) A representative of the Louisiana Professional Engineering and
23 Surveying Board.

24 (5) A representative of the Louisiana Home Builders Association.

25 (6) The director of the Louisiana State Hurricane Center or designee.

26 (7) A representative of the Building Officials Association of Louisiana.

27 (8) A representative of the Louisiana State Fire Marshal.

28 (9) A representative of the Louisiana Municipal Association.

29 (10) A representative of the Police Jury Association of Louisiana.

1 (11) A representative of the Louisiana Department of Facility Planning.

2 (12) A representative of the general public who is not in the practice of
3 home or commercial safety inspection, construction, or building, and who does
4 not have any financial interest in these professions, and who does not have any
5 immediate family member in these professions to serve as an at-large consumer
6 representative.

7 (13) A disabled person.

8 (14) A representative of the property, casualty insurance industry.

9 (15) A representative of the electrical industry who is a master
10 electrician.

11 (16) A representative of the mechanical or gas industry who is a master
12 mechanic.

13 (17) A representative of the Louisiana Association of Plumbing Heating
14 Cooling Contractors who is a master plumber.

15 (18) A representative of the Manufactured Housing Association.

16 (19) A representative of the Louisiana Realtors Association.

17 B. A vacancy shall be filled in the manner of the original appointment
18 for the unexpired portion of the term.

19 C. The primary function of the council is to review and adopt the state
20 uniform construction code, provide for training and education of code officials
21 and accept all requests for amendments of the code, except the Louisiana State
22 Plumbing Code. The council shall determine which amendments, if any, are
23 justified by local conditions and can be enacted after a finding on the record
24 that the modification provides a reasonable degree of public health, safety, and
25 welfare.

26 D. The council shall elect from its members a chairman and vice
27 chairman. The council shall adopt regulations consistent with this Part. A
28 meeting may be called by the chairman on his own initiative and must be called
29 by him at the request of three or more members of the council. Each member

1 must be notified by the chairman in writing of the time and place of the meeting
2 at least seven days before the meeting. A majority of members constitute a
3 quorum. Each meeting is open to the public. An official decision of the council
4 may be made only by a vote of at least two-thirds of those members in
5 attendance at the meeting.

6 §1730.23. Enforcement of building codes by municipalities and parishes

7 A. Notwithstanding any other law to the contrary, all municipalities and
8 parishes in this state shall enforce only codes provided for in this Part.

9 B. Nothing in this Part shall conflict with the Federal Department of
10 Housing and Urban Development's regulations regarding manufactured
11 housing construction or the provisions of R.S. 51:912.

12 C. In connection with the construction of any building, structure, or
13 other improvement to immovable property, neither the performance of any
14 enforcement procedure nor any provision of a building code shall constitute or
15 be construed as a warranty or guarantee by an enforcement agency as to
16 durability or fitness, or as a warranty or guarantee by an enforcement official
17 that said building, structure, or other improvement to immovable property or
18 any materials, equipment, or method or type of construction used therein is or
19 will be free from defects, will perform in a particular matter, is fit for a
20 particular purpose, or will last in any particular way.

21 §1730.24. Agreements with other governmental entities for provision of services

22 A. Municipalities and parishes may establish agreements with other
23 governmental entities of the state or certified third party providers to issue
24 permits and enforce the state uniform construction code in order to provide the
25 services required by this Part. The council may assist in arranging for
26 municipalities, parishes, or certified third party providers to provide the
27 services required by this Part to other municipalities or parishes if a written
28 request from the governing body of the municipality or parish is submitted to
29 the council.

1 **B. A commercial or residential contractor may establish agreements**
2 **with certified third party providers to inspect and enforce the state uniform**
3 **construction code. A third party provider must be certified by the International**
4 **Code Council and registered with the Louisiana State Uniform Code Council.**
5 **§1730.25. Appointment of building official or contractual arrangement for**
6 **such services; affidavit for exemption**

7 **A. Each parish and municipality shall appoint a council certified**
8 **building official or contract with other governmental entities or third parties as**
9 **authorized in Section 1730.24 of this Part so that the unincorporated area of the**
10 **parish is under the jurisdiction of a council certified building official. Nothing**
11 **in this Part shall prevent a municipality or parish from appointing and**
12 **employing other council certified personnel and assistants necessary to perform**
13 **the required inspections and technical duties and prescribing fees for**
14 **construction permits and inspections as provided by law.**

15 **B. Notwithstanding the provisions of Paragraph (A), a parish or**
16 **municipality may utilize the services of a certified building inspector in lieu of**
17 **a certified building official to enforce the provisions of this Part. The provisions**
18 **of this Paragraph shall become null and void and of no effect on and after**
19 **January 1, 2010.**

20 **§1730.26. Adoption and promulgation of certain building codes and standards**
21 **as state uniform construction code; procedures**

22 **The council shall review, adopt, modify, and promulgate the building**
23 **codes referenced in Section 1730.28 of this Part, provided that:**

24 **(1) The council shall promulgate rules and regulations to modify portions**
25 **of the state uniform construction code referenced in Section 1730.28 of this Part**
26 **under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.**
27 **The Senate and House committees on commerce shall receive notice of intent to**
28 **modify portions of the state uniform construction code and shall have oversight**
29 **of any such modifications under the provisions of the Administrative Procedure**

1 Act.

2 (2) The state uniform construction code shall be updated every three
3 years.

4 §1730.27. Adoption and enforcement of emergency wind and flood mitigation
5 requirements

6 A. The parishes of Calcasieu, Cameron, Iberia, Jefferson, Lafouche,
7 Orleans, Plaquemines, St. Bernard, St. Tammany, Terrebone, and Vermilion
8 shall enforce, on an emergency basis, all the wind and flood mitigation
9 requirements prescribed by the 2003 International Building Code and the 2003
10 International Residential Code, as modified in Section 1730.28(A)(3).

11 B. Emergency wind and flood building requirements adopted in this
12 Section shall remain in force until the council adopts the latest editions of both
13 the International Building Code and the International Residential Code, as
14 modified by this Part, as minimum mandatory statewide codes.

15 C. Except as otherwise provided herein, the emergency wind and flood
16 mitigation requirements adopted by this Section shall be enforced pursuant to
17 Section 1730.23 of this Part. If municipalities and parishes are unable to
18 enforce the emergency wind and flood mitigation requirements prescribed in
19 this Section within ninety days of enactment of this Act, the Louisiana
20 Department of Public Safety and Corrections shall enforce them as long as they
21 remain in effect.

22 §1730.28. Mandatory adoption of certain nationally recognized codes and
23 standards as the state uniform construction code; adoption by
24 reference

25 A. The council shall adopt by reference and amend only the latest
26 editions of the following as the state uniform construction code:

27 (1) International Building Code and the standards referenced in that
28 code for regulation of construction within this state. The appendices of that code
29 may be adopted as needed, but the specific appendix or appendices must be

1 referenced by name or letter designation at the time of adoption.

2 (2) International Existing Building Code and the standards referenced
3 in that code for regulation of construction within this state. The appendices of
4 that code may be adopted as needed, but the specific appendix or appendices
5 must be referenced by name or letter designation at the time of adoption.

6 (3) International Residential Code, not including parts I-Administrative,
7 IV-Energy Conservation, V-Mechanical, VII-Plumbing and VIII-Electrical. The
8 applicable standards referenced in that code are included for regulation of
9 construction within this state. The appendices of that code may be adopted as
10 needed, but the specific appendix or appendices must be referenced by name or
11 letter designation at the time of adoption, with the exception of Appendix J,
12 Existing Buildings and Structures, which is hereby adopted by this reference.
13 For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be
14 amended as follows and only apply to the International Residential Code, 2003
15 edition:

16 (a) Amendment of R301.2.1.1 (Design Criteria).

17 (b) Item 6, the American Concrete Institute, *Guide to Concrete Masonry*
18 *Residential Construction in High Winds Areas*, shall be added.

19 (d) Item 7, Institute for Business & Home Safety, *Optional Code-plus*
20 *Fortified for Safer Living*, shall be added.

21 (d) Item 8, Federal Alliance for Same Homes, *Optional Code-plus*
22 *Blueprint for Safety*, shall be added.

23 (4) International Mechanical Code and the standards referenced in that
24 code for regulation of construction within this state. The appendices of the code
25 provided in this Paragraph may be adopted as needed, but the specific appendix
26 or appendices must be referenced by name or letter designation at the time of
27 adoption.

28 (5) The Louisiana State Plumbing Code, not including Chapter 27-
29 Electrical and Chapter 29 - Plumbing Systems, as amended by the state health

1 officer acting through the office of public health of the Department of Health
2 and Hospitals.

3 (6) International Fuel Gas Code and the standards referenced in that
4 code for regulation of construction within this state. The appendices of the code
5 provided in this Paragraph may be adopted as needed, but the specific appendix
6 or appendices must be referenced by name or letter designation at the time of
7 adoption.

8 (7) National Electric Code.

9 B. Within six months of the effective date of this Part, the council shall
10 adopt the latest versions of the codes referenced in this Section.

11 §1730.29. Regulation of construction or improvement of industrial facilities

12 Excluding the applicable requirements of the Louisiana State Plumbing
13 Code, the provisions of this Part shall not apply to the construction or
14 improvement of the following types of industrial facilities that are engaged in
15 activities defined or classified under one or more of the following subsectors,
16 industry groups, or industries of the 1997 North American Industry
17 Classification System (NAICS):

18 (1) 22111 electric power generation.

19 (2) 321 wood products manufacturing.

20 (3) 322 paper manufacturing.

21 (4) 324 petroleum and coal products manufacturing.

22 (5) 325 chemical manufacturing.

23 (6) 326 plastics and rubber products manufacturing.

24 (7) 331 primary metals manufacturing.

25 (8) 422710 bulk stations and materials.

26 (9) 486110 crude oil pipelines.

27 (10) 486910 refined petroleum products pipelines.

28 (11) 486210 natural gas pipelines.

29 (12) 486990 other pipelines.

1 **§1730.30. Regulation of construction or improvement of farm structure;**

2 **authority to issue building permits**

3 **A. For purposes of this Section, "farm structure" means a structure**
4 **which is constructed on a farm, other than a residence or a structure attached**
5 **to it, for use on the farm including, but not limited to, barns, sheds, and poultry**
6 **houses, but not public livestock areas. For purposes of this Section, "farm**
7 **structure" does not include a structure originally qualifying as a "farm**
8 **structure" but later converted to another use.**

9 **B. The governing authority of a parish or municipality may not enforce**
10 **that portion of the state uniform construction code which regulates the**
11 **construction or improvement of a farm structure.**

12 **C. For residential construction, the standards published by the Federal**
13 **Emergency Management Agency for the National Flood Insurance Program**
14 **shall apply.**

15 **D. In order to qualify as a farm structure, the person owning the**
16 **property, shall, prior to construction, file a written statement with the parish**
17 **or municipal official responsible for enforcing the building code which states**
18 **that the structure is being constructed as a farm structure. The statement must**
19 **set forth the purpose or intended use of the proposed structure or addition.**

20 **E. The provisions of this Section shall not affect the power of the**
21 **governing authority of a parish or municipality to issue building permits before**
22 **the construction or improvement of a farm structure.**

23 **§1730.31. Mandamus and injunctive relief for violation of code or regulation;**

24 **penalties**

25 **For a violation of the building codes or regulations adopted pursuant to**
26 **this Part, the local building official may enjoin further construction of the**
27 **project as provided for by local ordinance. The municipal, district or parish**
28 **attorney, attorney general or other appropriate authorities of a political**
29 **subdivision, in addition to other remedies, may apply for injunctive relief,**

1 mandamus, or other appropriate proceeding in the district court of the parish
2 where the violation occurred.

3 §1730.32. Imposition of fees; parish and municipal authority

4 Nothing in this Part shall prohibit the governing authority of a parish or
5 municipality from imposing fees necessary to implement and continue the
6 provisions required by this Part as provided by law.

7 §1730.33. Codes applicable to building inspections

8 Buildings must be inspected in accordance with the codes in effect for the
9 locality on the date of the issuance of the original building permit, except that:

10 (1) If no date of issuance of original building permit can be found, the
11 date of submission of the completed application to the local authority must be
12 used.

13 (2) If no date of application for, or date of issuance of, building permit
14 is available, the director of the applicable parish planning and development
15 service or similar agency shall determine the nearest possible date by using
16 available documents, such as transfer of property records, mortgage records,
17 tax records, or rent records.

18 §1730.34. Responsibility of Louisiana State Construction Code Council for
19 registration of building codes enforcement officers; record of
20 hearings and proceedings; register of applications for certificates
21 of registrations

22 A. The Louisiana State Uniform Construction Code Council is
23 responsible for the registration of building codes enforcement officers pursuant
24 to this Part. When used in this Part "building codes enforcement officer"
25 means a person employed by a public entity who is primarily responsible for the
26 overall inspection or enforcement of applicable building code requirements
27 within the jurisdiction of the employer.

28 B. The council or its designated representatives may conduct hearings
29 and proceedings required by law or considered necessary by the council. The

1 council and its members shall be subject to the Open Meetings Law, the Public
2 Records Law, and the Code of Governmental Ethics. The Department of Public
3 Safety and Corrections shall employ and supervise personnel necessary for the
4 administration of this Part. The council may promulgate regulations under the
5 provisions of the Administrative Procedure Act for the proper enforcement of
6 this Part.

7 C. The council shall keep a record of its hearings and proceedings and
8 a register of applications for the certificates of registration showing the date of
9 application, name, qualifications, and addresses of the business and residence
10 of the applicant and whether the certificate is approved or denied. The council
11 shall publish at least annually the applications in the register which are
12 approved. Applicants and registrants shall notify the council of changes in
13 required information within ten days of a change.

14 §1730.35. Application and issuance of certificates of registration; provisional
15 certificates of registration; registration

16 A. A person desiring to be registered as a building code enforcement
17 officer as required by this Part shall apply upon a form prescribed by the
18 council.

19 B. An applicant shall furnish satisfactory proof to the council of valid
20 certification by a recognized code organization or testing agency in the general
21 or special capacity in which he desires to be registered. Special certificates of
22 registration authorize the registrant to practice in the named specialty only.
23 General certificates of registration are not restricted. The council or its
24 designated representatives shall review the guidelines employed by the
25 organization or agency in order to determine their continued compatibility with
26 the requirements considered by the council to be consistent with this Part.

27 C. Certificates of registration may be issued without examination to
28 building code enforcement officers employed in code enforcement on the
29 effective date of this Part only for the position and locality held at the time of

1 registration pursuant to this Section. This registration for building code officials
2 is valid for four years and may be renewed. This registration for residential
3 building code inspectors is valid for six months and may be renewed.

4 D. Upon initial employment by a parish, municipality or other political
5 subdivision, an individual must be granted a provisional certificate of
6 registration without examination which is valid for the time period stipulated
7 by regulation of the council for each registration classification from the date of
8 issuance. The provisional certificate of registration may not be renewed.

9 E. The council shall have the authority to suspend or revoke certificates
10 of registration upon any violation of this Part after notice and a proper hearing.
11 The council shall implement rules for such proceedings under the
12 Administrative Procedure Act.

13 §1730.36. Registration required to practice as code enforcement officer

14 No person may practice as a code enforcement officer in this state unless
15 registered as provided in this Part. A person, not employed by a parish or
16 municipality or the state of Louisiana as a code enforcement officer, who
17 intentionally violates the provisions of this Part shall be guilty of a misdemeanor
18 and, upon conviction, may be fined not more than two hundred dollars or
19 imprisoned not more than thirty days. Each day the violation continues is a
20 separate offense.

21 §1730.37. Injunction to restrain person from violating this Part

22 If the council has reason to believe that a person is violating or intends
23 to violate a provision of this Part, in addition to other remedies, it may order the
24 person immediately to refrain from the conduct. The council may apply to the
25 district court of the parish for an injunction restraining the person from the
26 conduct. The court may issue a temporary injunction ex parte not to exceed ten
27 days and upon notice and full hearing may issue other orders in the matter it
28 considers proper. No bond is required of the council by the court as a condition
29 to the issuance of an injunction or other order pursuant to this Part.

1 **§1730.38. Duration of certificates; renewal; continuing education requirements;**
 2 **funding**

3 **A certificate of registration is valid for two years and expires on the last**
 4 **day of the month of issuance. Renewal of all registrations must be based upon**
 5 **a determination by council of the applicant's participation in approved**
 6 **continuing education programs. The council must promulgate regulations**
 7 **setting forth the continuing education requirements for building code**
 8 **enforcement officers. A person failing to make timely renewal of his certificate**
 9 **is not registered unless qualified in the manner provided for new registrants**
 10 **and may not practice until registered in accordance with this Part.**

11 **§1730.39. Powers of state fire marshal and state health officer**

12 **A. The state fire marshal may establish contract agreements with**
 13 **municipalities and parishes in order to provide permitting and code**
 14 **enforcement on behalf of the municipality or parish as provided in Section**
 15 **1730.24 of this Part.**

16 **B. Nothing in this Part shall be construed so as to prevent the state fire**
 17 **marshal from enforcing the fire protection, life safety, handicapped**
 18 **accessibility, and high rise laws of this state, the enforcement of which are his**
 19 **statutory and regulatory responsibility.**

20 **C. Nothing in this Part shall be construed so as to prevent the state fire**
 21 **marshal from enforcing the Commercial Building Energy Conservation Code**
 22 **as provided in R.S. 40:1730.41 et seq.**

23 **D. Nothing in this Part shall be construed so as to prevent the state**
 24 **health officer from enforcing Part XIV (Plumbing) of the Public Health-**
 25 **Sanitary Code, the enforcement of which are his statutory and regulatory**
 26 **responsibility.**

27 Section 2. Part IV-A of Chapter 8 of Title 40 of the Louisiana Revised Statutes of
 28 1950, comprised of R.S. 40:1725 through 1730.1, is hereby repealed in its entirety.

29 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

The original instrument was prepared by Jeffery T. Oglesbee. The following digest, which does not constitute a part of the legislative instrument, was prepared by Peggy Russell.

DIGEST

Hollis (SB 44)

Proposed law provides for the state uniform construction code.

Proposed law provides for a public policy and legislative intent regarding the state uniform construction code.

Proposed law creates the "Louisiana State Uniform Construction Code Council" (hereinafter referred to as the "council.")

Proposed law requires that the council consist of 19 members who shall be appointed by the governor subject to Senate confirmation for a term of three years or until a successor is appointed as follows:

- (1) The chairperson of the House Commerce Committee or designee.
- (2) The chairperson of the Senate Commerce, Consumer Protection, and International Affairs Committee or designee.
- (3) A representative of the Louisiana Chapter of the American Institute of Architects.
- (4) A representative of the Louisiana Professional Engineering and Surveying Board.
- (5) A representative of the Louisiana Home Builders Association.
- (6) The director of the Louisiana State Hurricane Center or designee.
- (7) A representative of the Building Officials Association of Louisiana.
- (8) A representative of the Louisiana State Fire Marshal.
- (9) A representative of the Louisiana Municipal Association.
- (10) A representative of the Police Jury Association of Louisiana.
- (11) A representative of the Louisiana Department of Facility Planning.
- (12) A representative of the general public.
- (13) A disabled person.
- (14) A representative of the property, casualty insurance industry.
- (15) A representative of the electrical industry who is a master electrician.

- (16) A representative of the mechanical or gas industry who is a master mechanic.
- (17) A representative of the Louisiana Association of Plumbing Heating Cooling Contractors who is a master plumber.
- (18) A representative of the Manufactured Housing Association.
- (19) A representative of the Louisiana Realtors Association.

Proposed law provides that the primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and to accept requests for amendments to the code, except the Louisiana State Plumbing Code.

Proposed law requires the council to elect a chairman and vice chairman from its membership. The chairman may call a meeting and must call a meeting at the request of three or more members of the council. A majority of the members will constitute a quorum and all official decisions must be approved by a two-thirds vote of the members present at the meeting.

Proposed law requires all municipalities and parishes to enforce the codes provided for in proposed law and which are not in conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction.

Proposed law provides that neither the performance of any enforcement procedure nor any provisions of building code shall be construed as a warranty or guarantee by an enforcement agency as to durability or fitness or as a warranty or guarantee that the structure or improvement or materials, equipment, or method of construction used therein is or will be free from defects, will perform in a particular way, is fit for a particular purpose, or will last in any particular way.

Proposed law allows municipalities and parishes to establish agreements with other governmental entities or certified third party providers in order to issue permits and enforce the state uniform construction code as required by proposed law. Further requires each parish or municipality to appoint a certified building official or contract with other governmental entities or certified third party providers. Further provides that a parish or municipality may use the services of a certified building inspection in lieu of a certified building official until January 1, 2010.

Proposed law authorizes a commercial or residential contractor to establish agreements with certified third party providers to inspect and enforce the state uniform construction code and requires that such a provider be certified by the International Code Council and registered with the Louisiana State Uniform Code Council.

Proposed law requires the council to review, adopt, modify, and promulgate the building codes provided for in proposed law. Further requires the council to promulgate rules and regulations portions of the state uniform construction code pursuant to the provisions of the Administrative Procedure Act and oversight by the House Commerce Committee and the Senate Commerce, Consumer Protection, and International Affairs Committee as provided for by the Administrative Procedure Act.

Proposed law requires that the state uniform construction code must be updated by the council every three years.

Proposed law requires that the parishes of Calcasieu, Cameron, Iberia, Jefferson, Lafouche, Orleans, Plaquemines, St. Bernard, St. Tammany, Terrebone, and Vermilion shall enforce, on an emergency basis, all wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified and amending Section 301.2.1.1(2) to replace "Southern Building Code Congress International

Standard for Hurricane Resistant Residential Construction (SSTD 10)" with the Guidelines for Hurricane Resistant Construction as published by the Institute for Business and Home Safety, 2005.

Proposed law further requires that the emergency wind and flood mitigation requirements remain in full force and effect until the council adopts the latest editions of both the International Building Code and the International Residential Code, as modified.

Proposed law requires each affected municipality and parish to enforce the emergency wind and flood mitigation requirement in accordance with the provisions of proposed law. In the event a municipality or parish is unable to enforce these provisions within 90 days of enactment of proposed law, the Department of Public Safety and Corrections shall enforce them as long as they remain in effect.

Proposed law requires the council to adopt by reference and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (2) International Existing Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (3) International Residential Code, not including parts I-Administrative, IV-Energy Conservation, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) will be amended as follows and only apply to the International Residential Code, 2003 edition:
 - (a) Amendment of R301.2.1.1 Design Criteria
 - (b) Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, will be added.
 - (c) Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, will be added.
 - (d) Item 8, Federal Alliance for Same Homes, *Optional Code-plus Blueprint for Safety*, will be added.
- (4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (5) The Louisiana State Plumbing Code, not including Chapter 27-Electrical and Chapter 29 - Plumbing Systems as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals
- (6) International Fuel Gas Code and the standards referenced in that code for regulation

of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) National Electric Code.

Proposed law requires the council to meet and adopt the latest versions of the codes referred to above within six months following enactment of proposed law.

Proposed law does not apply to the construction or improvement of the following types of industrial facilities as defined or classified pursuant to the 1997 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
- (2) 321 wood products manufacturing.
- (3) 322 paper manufacturing.
- (4) 324 petroleum and coal products manufacturing.
- (5) 325 chemical manufacturing.
- (6) 326 plastics and rubber products manufacturing.
- (7) 331 primary metals manufacturing.
- (8) 422710 bulk stations and materials.
- (9) 486110 crude oil pipelines.
- (10) 486910 refined petroleum products pipelines.
- (11) 486210 natural gas pipelines.
- (12) 486990 other pipelines.

Proposed law provides that in order to qualify as a farm structure, the person owning the property, shall, prior to construction, file a written statement with the parish or municipal official responsible for enforcing the building code which states that the structure is being constructed as a farm structure and sets forth the purpose and intended use of the proposed structure or addition.

Proposed law allows the local building official to enjoin further construction of a project as provided for by local ordinance upon a violation of the building codes or regulations adopted pursuant to the provisions of proposed law. Further provides that the municipal, district, parish attorney or the attorney general may apply for additional injunctive relief in the district court of the parish where the violation occurred.

Proposed law allows the governing authority of a parish or municipality to impose fees necessary to implement and continue the provisions of proposed law and further provides that the provisions of proposed law are cumulative to other local ordinances.

Proposed law requires that building must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit.

Proposed law requires the Louisiana State Uniform Construction Code Council to:

- (1) Register building code enforcement officers pursuant to the provisions of proposed law.
- (2) Conduct hearings and proceedings as necessary to implement the provisions of proposed law and promulgate regulations pursuant to the provisions of the Administrative Procedure Act for the proper enforcement of proposed law.
- (3) Keep a record of its hearings and proceedings and to keep a register of applications for certificates of registration. The council must publish at least annually the approved applications.

Proposed law provides that the council and its members shall be subject to the Open Meetings Law, the Public Records Law, and the Code of Government Ethics.

Proposed law allows the council to issue certificates of registration without application to building code enforcement officers employed in code enforcement on the effective date of proposed law. This registration for building code officials is valid for 4 years and the registration for residential building code inspectors is valid for 6 months. Both registration may be renewed.

Proposed law requires that upon initial employment by a parish, municipality, or other political subdivision an individual must be granted a provisional certificate of registration without examination for a specified time period. A provisional certificate of registration may not be renewed.

Proposed law allows the council to order persons violating the provisions of proposed law to refrain from the conduct and may also apply to the district court of the parish in which the violation occurs for injunctive relief.

Proposed law requires any person practicing as a building code enforcement officer to be registered as provided for by proposed law and must apply upon a form prescribed by the council. Further provides that the penalty for who is not registered and who violates the provisions of the uniform building code shall be guilty of a misdemeanor and upon conviction, may be fined not more than \$200 or imprisoned for not more than 30 days. Each day a violation continues shall be considered as a separate offense

Proposed law requires applicants to furnish satisfactory proof to the council of a valid certification by a recognized code organization or testing agency in the general or special capacity in which he desires to be registered. The council may suspend or revoke certificates of registration upon any violation of proposed law following notice and a hearing consistent with the provisions of the Administrative Procedure Act.

Proposed law provides that a certificate of registration is valid for two years and expires on July first of every other year unless renewed before that date. Renewal of a certificate of registration must be determined by the council to ensure that the applicant meets the continued education requirements promulgated by the council.

Proposed law allows the state fire marshal to establish contract agreements with municipalities or parishes in order to provide permitting and code enforcement as provided for in proposed law. Further clarifies that the provisions of proposed law do not prevent the state fire marshal from meeting his other statutory and regulatory responsibilities.

Proposed law clarifies that the provisions of the proposed law shall not prevent the state health officer from enforcing the plumbing regulation of the Public Health -Sanitary Code.

Proposed law requires that any insurer who makes application to the Louisiana Rating Commission for a rate filing shall provide details as to what discount or reduced rate will be given to insureds who comply with the uniform construction code.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1407(J) and R.S. 40:1730.21 - 1730.39; repeals R.S. 40:1725 - 1730.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds the requirement that council members shall be subject to Senate confirmation.
2. Specifies that the council member representing the plumbing industry shall be a representative of the Louisiana Association of Plumbing Heating Cooling Contractors.
3. Adds a waiver of liability for an agency performing enforcement of building codes or for any provision of a building code relative to the construction of any building, structure, or improvement to immovable property.
4. Adds authorization for a commercial or residential contractor to establish an agreement with a certified third party provider to prove inspection and enforcement of the uniform construction code if the provider is certified by the International Code Council and registered with the Louisiana State Uniform Code Council.
5. Adds the authorization for a parish or municipality to use a certified building inspector in lieu of a certified building official for enforcement of the building code until 2010.
6. Changes the responsibility of the council to review, adopt, modify and promulgate the building codes from permissive to mandatory.
7. Changes the general reference to parishes which shall be required to enforce wind and flood mitigation requirements to specify that the included parishes shall be Calcasieu, Cameron, Iberia, Jefferson, Lafouche, Orleans, Plaquemines, St. Bernard, St. Tammany, Terrebone, and Vermillion.
8. Changes the time period in which parishes and municipalities are required to enforce emergency wind and flood mitigation before intervention of the DPS&C from 30 days to 90 days.
9. Deletes references to various codes which are no longer in effect.
10. Adds the following facilities to those types of industrial facilities which are exempted from the provisions of the state uniform construction code:
 - (a) 422710 bulk station sand materials.
 - (b) 486110 crude oil pipelines.
 - (c) 486910 refined petroleum products pipelines.
 - (d) 486210 natural gas pipelines.
 - (e) 486990 other pipelines.
11. Adds provision making the council and its members subject to the Open Meetings Law, the Public Records Law, and the Code of Governmental

Ethics.

12. Changes the period of validity of registration from 2 years for building code enforcement officers to 4 years for building code officials and 6 months for building code inspectors.
13. Adds penalties for an individual who is not registered as a code enforcement officer and who violates the provisions of the uniform construction code and provides that, if convicted, the individual shall be guilty of a misdemeanor and may be fined not more than \$200 or imprisoned for not more than 30 days.
14. Clarifies that nothing in the uniform construction code shall prevent the state health officer from enforcing the plumbing regulations of the Public Health - Sanitary Code.
15. Adds the requirement that any insurer making an application for a rate filing to the Louisiana Rating Commission shall provide details as to what discount or reduced rate will be given to insured who comply with the uniform construction code.