
DIGEST

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Pinac

HB No. 76

Abstract: Provides for changes to the state uniform construction code and creates the Louisiana State Uniform Construction Code Council.

Present law provides that the performance of any enforcement procedure in connection with any building code shall be deemed a discretionary act.

Proposed law repeals present law.

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 and provides that each member of the council shall be appointed by the governor, subject to Senate confirmation, for a term of three years and until a successor is appointed and qualifies. The council shall consist of 19 members and no member of the council shall receive per diem or other compensation for their duties on the commission.

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 accept all requests for amendments of the code, except the Louisiana State Plumbing Code.

Proposed law specifically provides that the council shall establish requirements for certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and determine if any amendments to the state uniform construction code are justified. Proposed law provides that if the council determines that an amendment is justified, it may enact such amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, and welfare.

Proposed law provides that the council shall elect from its members 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 within 14 days of such request.

Proposed law provides each meeting shall be open to the public and any official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to a vote. A majority of members of the council shall constitute a quorum.

Proposed law provides that the council and its members shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities and that the state shall hold the council and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies.

Present law provides that if a building code is adopted by any political subdivision of this state, it must adopt the state uniform construction code.

Proposed law changes present law by providing that all municipalities and parishes in this state shall enforce the state uniform construction code provided for in proposed law.

Proposed law provides that nothing in proposed law shall conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction or the provisions of present law that relate to manufactured housing installation.

Proposed law provides that the provisions of proposed law do not limit the authority of parishes or municipalities to enact and enforce stricter building codes as long as they do not diminish the requirements established in proposed law.

Proposed law retains present law and provides a hold harmless provision for government entities and its employees providing code enforcement.

Proposed law provides that municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in accordance with proposed law.

Proposed law provides that commercial and residential contractors may establish agreements with certified third-party providers to conduct plans review and inspections and to enforce the state uniform construction code. A third-party provider shall be certified by the International Code Council for purposes of the emergency provisions of proposed law. Thereafter, a third-party provider shall meet the requirements imposed by the council for certificates of registration.

Proposed law provides that under the emergency provisions of proposed law, every certified third-party provider doing business within the state shall notify the Dept. of Public Safety and Corrections and the department shall maintain a listing of the name of the provider and the name and location of the person or entity with whom the provider has contracted to provide enforcement services. Proposed law provides that once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state and the council shall maintain a listing of all certified third-party providers.

Proposed law provides that each parish and municipality shall appoint a council-certified building official or contract with other governmental entities or third parties in order to be under the jurisdiction of a council-certified building official. Proposed law provides that a parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes

effective in the parish or municipality.

Proposed law provides that the council shall review, adopt, modify, and promulgate the state uniform construction code by rules and regulations under the provisions of the Administrative Procedure Act.

Proposed law provides that the state uniform construction code shall be updated every three years.

Proposed law provides that the wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified in this proposed law, 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 shall apply to the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

Proposed law provides that the emergency wind and flood building requirements adopted shall remain in force until the council adopts the latest editions of both the International Building Code and the International Residential Code, as modified by proposed law, as minimum mandatory statewide codes.

Proposed law provides that if municipalities and parishes are unable to enforce the emergency wind and flood mitigation requirements prescribed in proposed law within the time period provided by proposed law, the Louisiana Dept. of Public Safety and Corrections shall enforce them as long as they remain in effect.

Proposed law provides that emergency provisions of proposed law shall go into effect 30 days from the effective date of proposed law for parishes and municipalities that have code enforcement procedures in place. Proposed law provides that for those parishes and municipalities without code enforcement procedures, the emergency provisions shall be applied no later than 90 days from the effective date of proposed law.

Present law provides that the model codes of the International Building Code, 2000 Edition, published by the International Code Council, the National Electrical Code, published by the National Fire Protection Association, as well as Part XIV (Plumbing) of the State Sanitary Code, are designated as the state uniform construction code.

Proposed law changes present law and provides that the council shall adopt and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code, not including Chapter 27-Electrical and Chapter 29-Plumbing Systems. 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.

- (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, 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) shall be amended as follows and shall only apply to the International Residential Code, 2003 edition:
 - (a) Item 2, the Southern Building Code Congress International, Standard for Hurricane Resistant Residential Construction (SSTD 10), shall be replaced by the Institute for Business & Home Safety, Guidelines for Hurricane Resistant Construction, 2005.
 - (b) Amendment of R301.2.1.1 Design Criteria.
 - (c) Item 6, the American Concrete Institute, Guide to Concrete Masonry Residential Construction in High Winds Areas, shall be added.
 - (d) Item 7, Institute for Business & Home Safety, Optional Code-plus Fortified for Safer Living, shall be added.
 - (e) Item 8, Federal Alliance for Same Homes, Optional Code-plus Blueprint for Safety, shall 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 [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Dept. of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.
- (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 provides that within six months of the effective date of proposed law, the council shall adopt the latest versions of the codes referenced in proposed law.

Proposed law provides that excluding the applicable requirements of the Louisiana State Plumbing Code, the provisions of proposed law shall not apply to the construction or improvement of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of 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) 562211/562212 hazardous and solid waste landfills.
- (9) 422710 bulk stations and terminals.
- (10) 486110 crude oil pipelines.
- (11) 486910 refined petroleum products pipelines.
- (12) 486210 natural gas pipelines.
- (13) 486990 other pipelines.
- (14) 211112 natural gas processing plants.

Proposed law provides that the governing authority of a parish or municipality may not enforce that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp.

Proposed law defines "farm structure" as a structure which is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including but not limited to barns, sheds, and poultry houses, but not public livestock areas. Proposed law provides that a "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

Proposed law provides that for residential construction, the standards published by the Federal Emergency Management Agency for the National Flood Insurance Program shall apply.

Proposed law provides that the farm structure provisions in proposed law shall not affect the power of the governing authority of a parish or municipality to issue building permits before the

construction or improvement of a farm or private outdoor recreational structure.

Proposed law provides that the local building officials, municipal, district, or parish attorney, attorney general, or other appropriate authorities may apply for mandamus and injunctive relief and enjoin further construction on a project based on a violation of proposed law.

Proposed law provides that nothing in proposed law shall prohibit the governing authority of a parish or municipality from imposing fees necessary to implement and continue the provisions of proposed law.

Proposed law provides that buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit, except that:

- (1) If no date of issuance of original building permit can be found, the date of submission of the completed application to the local authority must be used.
- (2) If no date of application for, or date of issuance of, a building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records.

Proposed law provides that the Louisiana State Uniform Construction Code Council is responsible for the registration of building codes enforcement officers. Proposed law defines a "building codes enforcement officer" as a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Proposed law provides the council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council and provides that the Dept. of Public Safety and Corrections shall employ and supervise personnel necessary for administrative duties.

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 governmental ethics, provided however, that when any member of the council has a real or perceived conflict of interest upon an issue before the council, he shall recuse himself from participation in that issue by providing a verbal explanation of the real or perceived conflict to the council.

Proposed law provides that the council shall keep a record of proceedings and a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish at least annually the applications in the register which are approved.

Proposed law provides that an applicant shall furnish satisfactory proof to the council of valid

certification by a recognized code organization or testing agency that is prescribed by the council in the general or special capacity in which he desires to be registered. Special certificates of registration authorize the registrant to practice in the named specialty only. General certificates of registration are not restricted. Proposed law provides that the council shall review the guidelines employed by the certifying organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with proposed law.

Proposed law provides that certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers employed in code enforcement on the effective date of proposed law only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. The certificates of registration may not be renewed except as provided in proposed law.

Proposed law provides that upon initial employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a code enforcement officer who is certified by the International Code Council. Such provisional certificate of registration is valid for the time period stipulated by regulation of the council for each registration classification. The provisional certificate of registration may not be renewed except as provided in proposed law.

Proposed law provides the council shall have the authority to suspend or revoke certificates of registration upon any violation of proposed law after notice and a proper hearing. The council shall implement rules for such proceedings under the Administrative Procedure Act.

Proposed law provides that no person may practice as a code enforcement officer in this state unless registered as provided in proposed law. A person violating proposed law is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or imprisoned not more than 30 days. Each day the violation continues is a separate offense.

Proposed law provides that the council may apply for an injunction against a person it believes is violating or intends to violate proposed law and no bond is required of the council by the district court as a condition to issuance of an injunction.

Proposed law provides that a certificate of registration issued under proposed law is valid for two years and expires on the last day of the month of issuance. Renewal of all registrations is based upon a determination by the council of the applicant's participation in council-approved continuing education programs. Proposed law provides that a person failing to make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants and may not practice until registered under proposed law.

Present law provides that if a political subdivision chooses not to enforce a building code on its own upon request of a local jurisdiction, the state fire marshal may enforce at his option the state

uniform construction code on its behalf and charge plan reviews fees based on a schedule in present law.

Proposed law changes present law by repealing the fee schedule and by providing that the state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in proposed law.

Proposed law provides that nothing in proposed law shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, handicapped accessibility, and high rise laws of this state, or as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in present law.

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

(Amends R.S. 33:4773(D); Adds R.S. 40:1730.21-1730.39; Repeals R.S. 40:1725-1730.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Repeals provision that states that enforcement of building code is a discretionary act.
2. Provides that no council member shall receive per diem or other compensation.
3. Provides that the council shall establish requirements for certification and continuing education and determine if any amendments to the state uniform construction code are justified.
4. Provides for immunity of council and its members for actions taken in good faith in discharge of their duties.
5. Provides that proposed law shall not conflict with present law that relates to manufactured housing installation.
6. Provides that parishes or municipalities may enact and enforce stricter building codes as long as they do not diminish the requirements established in proposed law.
7. Provides that commercial and residential contractors may establish agreements with certified third-party providers to conduct plans review and inspections and to enforce the state uniform construction code.
8. Provides that a parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality.

9. Provides that emergency provisions shall apply to the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.
10. Provides that emergency provisions go into effect 30 days from the effective date of proposed law for parishes and municipalities that have code enforcement and no later than 90 days for areas without code enforcement.
11. Provides for additional industrial exceptions to proposed law.
12. Deletes requirement that an affidavit must be filed in order to qualify as a farm structure.
13. Provides exception to proposed law for private outdoor recreational structures such as hunting and fishing camps.