
DIGEST

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HB 353 Original

2015 Regular Session

Ponti

Abstract: Provides for the review of actions taken by building code enforcement officers or certified third-party providers in the enforcement of the state uniform construction code.

Present law adopts the state uniform construction code, establishes the La. State Uniform Construction Code Council (council), and provides for the membership and duties of the council.

Proposed law retains present law and adds a requirement for the chairman of the council to designate a member of the council who is a La.-licensed professional engineer or architect or an active or retired certified building official to act as the supervising council member for the investigation of complaints and adjudication of violations of the provisions of proposed law. Further provides that the member shall serve as supervising council member for a period of one year and may recuse himself in the event of a real or perceived conflict of interest.

Proposed law establishes, within the La. State Uniform Construction Code Council, the Building Code Enforcement Officer Subcommittee (subcommittee), consisting of the following members:

- (1) The chairman of the La. State Uniform Construction Code Council (council).
- (2) Three building officials appointed by the chairman of the council from a list of names submitted by the Building Officials Association of La.
- (3) One member appointed by the chairman of the council from a list of names submitted by the La. Municipal Association and the La. Police Jury Association.

Proposed law provides for the terms of membership, the election of a chairman of the subcommittee, the filling of vacancies, the recusal of members, and the removal of members. Further establishes a quorum and prohibits compensation.

Proposed law provides that the primary function of the subcommittee is to conduct the resolution of complaints against building code enforcement officers and certified third-party providers including informal settlement conferences and formal adjudication of alleged violations.

Proposed law authorizes any person who believes there is a violation by any building code enforcement officer or certified third-party provider of any provision of the state uniform construction code to file a complaint with the council. Further requires the initial complaint to be made in the form of a sworn affidavit and prohibits the council from accepting an anonymous

complaint.

Proposed law requires the supervising council member to conduct a preliminary investigation of a complaint no later than 45 days after receipt of the complaint to determine whether there is probable cause to justify further investigation. Further requires, if the supervising council member finds that a complaint alleges misconduct which is not regulated under the jurisdiction of the council or there is a lack of probable cause to justify further investigation, the complaint to be immediately dismissed by the supervising council member and both the complainant and building code enforcement officer or certified third-party provider to be notified of the dismissal and the reasons therefor no later than five business days after the dismissal.

Proposed law requires the supervising council member, if he determines the complaint on its face demonstrates an allegation of misconduct, to initiate a formal investigation and immediately inform the subcommittee. Further requires the subcommittee to notify the complainant and the building code enforcement officer or certified third-party provider no later than five business days after the date the formal investigation is initiated that the preliminary investigation has resulted in the initiation of a formal investigation.

Proposed law requires the supervising council member, after sufficient information and evidence has been gathered through the formal investigation process, to make a determination as to whether the information and evidence gathered indicates that a violation of the state uniform construction code has occurred. Further requires, if the information and evidence gathered indicate that a violation has occurred, the supervising council member to do either of the following:

- (1) Refer the complaint for an informal settlement conference between representatives of the subcommittee and the building code enforcement officer or certified third-party provider against whom the complaint is filed to be held no later than 180 days after the complaint has been filed, unless good cause is shown for scheduling the meeting after that date.
- (2) File a formal written administrative complaint with the subcommittee to initiate a formal adjudication proceeding.

Proposed law requires, if the information and evidence gathered is insufficient to support the allegation that a violation has occurred, the supervising council member to recommend to the subcommittee that the investigation be closed and the complaint be dismissed.

Proposed law requires every formal investigation to be completed no later than 180 days after the supervising council member assigned the complaint makes the determination to initiate a formal investigation, unless the subcommittee approves an extension of time based upon a finding of good cause as to why the investigation could not be completed within that time.

Proposed law provides for the formal adjudication of alleged violations including authorization for the subcommittee to issue subpoenas or subpoenas duces tecum requiring the attendance and testimony under oath of witnesses and the production of any evidence or documentation that relates to any matter properly under investigation or in question before the subcommittee.

Proposed law authorizes the subcommittee to impose the following penalties:

- (1) For a first offense, continuing education as required by the subcommittee.
- (2) For a second offense, suspension of the registration of the building code enforcement officer or certified third-party provider not to exceed one year.
- (3) For a third or subsequent offense, suspension of the registration of the building code enforcement officer or certified third-party provider for not less than one year or permanent revocation of the registration.

Proposed law requires the subcommittee to provide notice of any penalty imposed and the right to appeal the decision to the building code enforcement officer or certified third-party provider no later than five business days after the subcommittee makes the decision to impose the penalty.

Proposed law requires any disciplinary action taken by a local jurisdiction as a result of a decision made by the subcommittee to be made in accordance with the rules and regulations of the civil service system applicable to the local jurisdiction.

Proposed law requires local jurisdictions subject to present law (Act No. 12 of the 2005 First E.S. of the La. Legislature) to establish a board of appeals comprised of members who are qualified by experience and training to render decisions on matters pertaining to building design and construction to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the state uniform construction code.

Proposed law limits the jurisdiction of the board to requests for appeals which are based on any of the following claims:

- (1) The true intent of the state uniform construction code has been incorrectly interpreted.
- (2) The provisions of the state uniform construction code do not fully apply.
- (3) An equally good or better form of construction is proposed.

(Adds R.S. 40:1730.22(F), 1730.22.2, 1730.23(J), 1730.23.1, 1730.34.1, and 1730.34.2)