

No. 2008-106

AN ACT

HB 1096

Amending the act of November 10, 1999 (P.L.491, No.45), entitled "An act establishing a uniform construction code; imposing powers and duties on municipalities and the Department of Labor and Industry; providing for enforcement; imposing penalties; and making repeals," further providing for definitions; establishing the Uniform Construction Code Review and Advisory Council; and further providing for revised or successor codes and for training of inspectors.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 103 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, is amended by adding a definition to read:

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Council." The Uniform Construction Code Review and Advisory Council established under this act.

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Section 2. The act is amended by adding a section to read:

Section 107. Uniform Construction Code Review and Advisory Council.

(a) Establishment.—The Uniform Construction Code Review and Advisory Council is hereby established.

(b) Duties.—The council shall do the following:

(1) Gather information from municipal officers, building code officials, construction code officials, licensed design professionals, builders and property owners concerning issues with the Uniform Construction Code raised by council members or changes proposed by members of the General Assembly.

(2) Evaluate the information compiled under paragraph (1) and make recommendations to the following:

(i) The Governor.

(ii) The Secretary of Labor and Industry.

(iii) The members of any legislative committee considering amendments to this act.

(iv) The President pro tempore of the Senate.

(v) The Speaker of the House of Representatives.

(vi) The Code Development Councils of the International Code Council.

(3) With the exception of the provisions of Chapter 11 and Appendix E of the International Building Code of 2006, or its successor codes, or any other accessibility requirements contained in or referenced by the Uniform Construction Code relating to persons with physical disabilities, review new and amended provisions contained in triennial revisions of the codes issued by the International Code Council to any of its codes. The council shall inform the department of any code provisions that should be excluded from the Uniform Construction Code by May 1 of the year of issuance of the latest triennial code issued by the International Code Council.

(c) Composition.—The council shall consist of the following members appointed by the Governor:

(1) A general contractor from an association representing the residential construction industry who has recognized ability and experience in the construction of new residential buildings.

(2) A contractor from an association representing the nonresidential construction industry who has recognized ability and experience in the construction of nonresidential buildings.

(3) A Uniform Construction Code-certified residential building inspector who possesses all five residential certifications from an association representing building code officials who has experience administering and enforcing residential codes.

(4) A Uniform Construction Code-certified building inspector who possesses all nonresidential inspection certifications, but need not possess a fire inspector certification, or a certified plans examiner who also holds an accessibility certification from an association representing building code officials who has experience administering and enforcing nonresidential codes.

(5) A Uniform Construction Code-certified fire inspector from an association representing building code officials.

(6) A Uniform Construction Code-certified building code official from an association representing building code officials with building code official certification.

(7) A residential contractor from an association representing contractors engaged in remodeling residential buildings who has recognized ability and experience in remodeling residential and nonresidential buildings.

(8) A licensed architect from an association representing architects who has recognized ability and experience in the design and construction of nonresidential buildings.

(9) A licensed architect from an association representing architects who has recognized ability and experience in the design and construction of residential buildings.

(10) A licensed structural engineer from an association representing professional engineers who has recognized ability and experience in the design and construction of buildings.

(11) A licensed mechanical engineer specializing in HVAC systems from an association representing professional engineers who has recognized ability and experience in the design and construction of buildings.

(12) A licensed mechanical engineer specializing in plumbing and fire protection from an association representing professional engineers who has recognized ability and experience in the design and construction of buildings.

(13) A licensed electrical engineer from an association representing professional engineers who has recognized ability and experience in the design and construction of buildings.

(14) An elected official of a township of the second class who has recognized ability and experience in construction of buildings.

(15) An elected borough official who has recognized ability and experience in construction of buildings.

(16) An elected official of a third class city who has recognized ability and experience in the construction of buildings.

(17) An individual from an association representing manufactured housing who shall be knowledgeable, licensed or certified to sell and install manufactured housing.

(18) An official of a city of the first class who has recognized ability and experience in the administration and enforcement of this act.

(19) An individual from an association representing only modular housing manufacturers who is knowledgeable, licensed or certified under the act of May 11, 1972 (P.L.286, No.70), known as the Industrialized Housing Act, to manufacture and sell modular homes in Pennsylvania.

At least one of the inspectors appointed to the council shall be a municipal employee, and at least one inspector shall be a third-party private sector inspector.

(d) Vacancies.—Vacancies on the council shall be filled in the same manner in which they were originally designated within 30 business days of the vacancy. If the Governor fails to act within 30 business days, the council chairperson shall appoint an individual to fill the vacancy.

(e) Removal.—A member may be removed for just cause by the Governor.

(f) Terms.—A member of the council shall serve terms of two years and until his successor is appointed beginning July 1, 2008, except the initial term of members appointed under subsection (c)(1), (3), (4), (5), (8), (11), (13) and (14) shall be for three years and until their successor is appointed.

(g) Chairperson and vice chairperson.—The members shall elect, by a majority vote, a chairperson and vice chairperson of the council.

(h) Quorum and consensus.—Ten members shall constitute a quorum, and a consensus among at least ten members must be reached before any determination can be made by the council.

(i) Meetings.—Meetings shall be conducted as required under 65 Pa.C.S. Ch. 7 (relating to open meetings) as follows:

(1) The council shall meet at least once every six months. Meeting dates shall be set by majority vote of the council members or by the call of the chair along with at least seven business days' notice to all members.

(2) All meetings of the council shall be publicly advertised and shall be open to the public. Members of the general public shall be given reasonable opportunity to address the council.

(3) The council shall publish a schedule of its meetings in the Pennsylvania Bulletin and in at least one newspaper of general circulation. The notice shall be published at least five business days in advance of each meeting. The notice shall specify the date, time and place of the meeting and shall state that the meetings of the council are open to the general public.

(j) Administrative support.—The secretary shall provide a facility for council meetings under this act, stenographic services and required notice of the council's meetings.

(k) Technical support.—The council may solicit and retain, without compensation, individuals who are qualified by training or experience to provide expert input to the council and, at the discretion of the council, such individuals may be reimbursed for reasonable travel expenses at a rate established by the secretary.

(l) Compensation and expenses.—Members of the council shall not receive a salary or per diem allowance for their service.

Section 3. Section 304(a) of the act, amended February 19, 2004 (P.L.141, No.13), is amended and the section is amended by adding a subsection to read:

Section 304. Revised or successor codes.

(a) Building code.—

(1) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of the issuance of a new triennial [BOCA National] ICC International Building Code, or its successor building code, the department shall promulgate regulations adopting the new code as the Uniform Construction Code[.] unless the council informs the department that it should exclude any provisions of the triennial code from the Uniform Construction Code. If the council provides this notification, the department shall submit regulations adopting the triennial code with provisions omitted by the council under this section within 90 days following council notification.

(2) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of issuance of a new

triennial ICC [**International One and Two Family Dwelling Code**] *International Residential Code*, or its successor building code, the department shall promulgate regulations providing that all detached one-family and two-family dwellings and one-family townhouses that are not more than three stories in height and their accessory structures may be designed in accordance with that code or the Uniform Construction Code at the option of the building permit applicant. *The department shall promulgate regulations adopting the new code as the Uniform Construction Code unless the council informs the department that it should exclude any provisions of the triennial code from the Uniform Construction Code. If the council provides this notification, the department shall submit regulations adopting the triennial code with provisions omitted by the council under this section within 90 days following council notification.*

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(d) Code revisions.—

(1) The council may determine that any new or amended provision contained in a triennial revision by the ICC to any of the codes which have been adopted by regulation of the department as part of the Uniform Construction Code is not, in the opinion of the council, consistent with the intent and purpose of this act or is otherwise inappropriate for inclusion in the Uniform Construction Code. In making a determination on the new or amended triennial revisions, the council may consider the provisions of section 102, as well as other relevant factors, including, but not limited to:

(i) The impact that the provisions may have upon the health, safety and welfare of the public.

(ii) The economic reasonableness and financial impact of the provisions.

(iii) The technical feasibility of the provisions.

(2) When adopting the latest triennial versions of the ICC codes, the department shall exclude a specific new or amended code provision rejected by the council under paragraph (1) and shall provide that the relevant provisions of the prior versions of the code shall remain in effect.

Section 4. Section 701(a) and (b) of the act, amended July 7, 2006 (P.L.1052, No.108), are amended to read:

Section 701. Training of inspectors.

(a) Training program.—The department, in consultation with the advisory board, [BOCA] ICC, NCSBCS and other interested parties, shall by regulation adopt a program of required training and certification for all categories of code administrators. This education program shall include accessibility requirements contained in and referenced by the Uniform Construction Code. The department may contract with third parties to provide the code training and testing programs.

(b) Categories of inspectors.—

(1) The department, in consultation with **[BOCA]** *the ICC* and other interested parties, shall establish appropriate categories of code administrators.

(2) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirement set forth under section 2303.1.1 of the 2003 International Building Code or its successor code or section R404.2.1, R502.1, R602.1 or R802.1 of the 2003 International Residential Code for One- and Two-Family Dwellings or its successor code.

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Section 5. This act shall take effect immediately.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL