



Testimony of Douglas Meshaw,
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Worker Protection
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Good morning. I would like to thank Subcommittee Chairman Nelson, and the members of the Subcommittee on Workers Compensation and Worker Protection for the opportunity to testify this morning. My name is Douglas Meshaw, and I am the Pennsylvania Uniform Construction Code consultant for the Pennsylvania Builders Association (PBA).

PBA advocated for the adoption of what is now known as Pennsylvania's Uniform Construction Code (PA UCC) in the nineties. All construction code provisions adopted for use in Pennsylvania come from the International Code Council (ICC) model codes – which are updated nationally every three years. While Act 45 has been amended over 10 times since 1999 there are two amendments that I would like to mention as they were necessary to fix issues with the national ICC model codes and show that Model Construction Codes adopted by the ICC do not always fit the unique needs of Pennsylvanians.

Prior to the 2009 ICC triennial updates, all ICC model codes were automatically adopted under the provisions of Act 45. The automatic adoption process, without any further review, became problematic when the 2006 ICC codes were found to contain inaccuracies (anchor bolt provisions) and separate legislation, Act 7 of 2007 was necessary to fix those provisions adopted from the model codes in the PA UCC. In an effort to eliminate the necessity for legislation to fix inherent mistakes in the model codes after every triennial review cycle, the General Assembly created the UCC Review & Advisory Council (RAC), a now 21-member board of professionals tasked with reviewing building code updates issued by the ICC (Act 106 of 2008).

This professional council was to be the final arbiter of code provisions that were reasonable for adoption and tasked with making critical decisions on the validity and cost effectiveness of new and revised code provisions on behalf of Pennsylvania consumers. Act 106 required the RAC to notify the Department of Labor and Industry of code provisions that should not be adopted in PA. All code provisions that were not specifically excluded from the RAC report would be automatically adopted, by a vote of 11 of 21 RAC members. In 2010, this process was used by the RAC when reviewing the 2009 ICC model code provisions.

After reviewing the 2009 ICC model code provisions, the RAC did not vote to exclude any code provisions from the model ICC codes and the entirety of the 2009 model codes were adopted in Pennsylvania including a 15% increase in energy efficiency mandates. Pennsylvania was one of only two states to adopt the entirety of the 2009 code within one year of publication. Concurrent with the RAC's review of the 2009 ICC model codes, serious irregularities in the ICC credentialing process for voting delegates led to charges of corruption by manufacturers of products mandated by the code. The ICC established a task force to review its codes development process, acknowledging that the process had room for improvement. Unfortunately, Pennsylvania had already codified the mandated residential sprinkler provisions contained in the 2009 IRC during the largest and longest new housing depression in modern memory. The RAC was given this responsibility by the state legislature to ensure that codes ill-suited for Pennsylvania would not be blindly incorporated into the state's building code. It was fully expected that the council would not simply rubber stamp the ICC model building codes for use in Pennsylvania.

Acting swiftly to reverse the RAC's actions, the General Assembly passed Act 1 of 2011, which repealed the residential sprinkler mandate in one and two family homes, replaced the 2009 wall bracing requirements with 2006 requirements (while the 2009 change may be appropriate for other states in "tornado alley" or in earthquake zones, there have been no documented wall bracing problems with homes built in PA under the 2006 code standards), and fixed dryer duct length inconsistencies in the mechanical code, gas code and the IRC. Again, in an attempt to keep bad for Pennsylvania codes, and erroneous or outright wrong model code provisions from being automatically adopted, the General Assembly also created a process by which code provisions would be difficult to adopt statewide unless a super majority of RAC members voted to include those new code provisions into the PA UCC. Under the policy changes made to the RAC's adoption process under Act 1, the RAC must specifically vote to i

Pennsylvania's 20-year history with the PA UCC has shown repeatedly that there are mistakes and unintended consequences that arise out of every triennial code change cycle – often to the detriment of consumers when they are adopted wholesale immediately after publication. Since code updates are often the result of lessons learned during building design and construction, technological advances, and code enforcement, Pennsylvania should carefully choose amendments relating to health, safety, and welfare that truly benefit the housing consumer. Pennsylvanians should have all the information necessary to make informed decisions regarding the type of home they wish to build. Adopting the ICC model codes wholesale every three years is not beneficial for Pennsylvania – if it were, why has the General Assembly needed to amend the PA UCC repeatedly to fix mistakes made in the model ICC codes? The most recent amendment to the PA UCC, Act 37 of 2017, fixed several issues that still stymied the RAC; Moving Pennsylvania to a 54-month delayed adoption cycle allows for the proper vetting of new code provisions and allows for the ICC to revisit any mistakes that were made in the previous cycle; the ability for the RAC to modify model code provisions to fit Pennsylvania's needs; and allowing for an extended public comment period.

I would also like to point out that the ICC is not a governmental entity. The ICC describes itself as "a nonprofit association that provides a wide range of building safety solutions including product evaluation, accreditation, certification, codification and training. It develops model codes and standards used worldwide to construct safe, sustainable, affordable, and resilient structures." The ICC is a member organization that was created out of the consolidation of three separate code organizations in the early

2000's. PBA agrees with the ICC in promoting safe building standards for residential construction and to assure consumers that new residential construction is completed in a safe manner; and under the current ICC governance structure, PBA and its members participate in committees and the board of the ICC, but most members, primarily homebuilders and subcontractors, the same persons who have to "build" to the ICC Code, are not typically permitted to be voting members of the ICC, only those classified as "governmental members" (code administrators, planning commissions, and local government officials) throughout the country can vote on the adoption of code proposals into the ICC Model Code.

Over the last two decades, the ICC Model Codes have vastly expanded the level of oversight of and intrusion into the residential construction process. Originally focused on health and safety concerns, the ICC Model Codes have come to focus increasingly on energy efficiency in residential construction without calculating the costs to consumers, which have steadily introduced significant increases in the cost to build a home in the United States. In addition, the ICC Model Code development process does not meaningfully address the fact that some of its participants have a vested interest in the expansion and adoption of codes to benefit those participants' own individual businesses or manufacturing processes by introducing their products and systems into model codes.

We encourage policy makers to consider the ability of the RAC to "backdoor" policy decisions that we believe should require legislative review. An example of one such policy decision that 21 unelected members of the RAC could make soon, through the adoption of building codes, is to require the complete electrification of all new residential buildings. In the past triennial cycle alone, two proposals were narrowly overturned at the national level that would have required gas appliances to be pre-wired for future electric conversion and a requirement that parking spaces be wired with a 240V, 40A receptacle for charging of electric vehicles. If adopted, each of these changes would have added thousands of dollars to the cost every new home.

PBA is perhaps the only advocate for safe and affordable housing options for the housing consumer. What constitutes safe housing is not up for debate, but what a consumer considers affordable should be left to the consumer.

On behalf of the Pennsylvania Builders Association and the more than 200,000 members and employees it represents, I thank you again for the opportunity to testify today and would be happy to take your questions.