

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1096 Session of 2007

INTRODUCED BY BUXTON, ARGALL, BELFANTI, BIANCUCCI, CALTAGIRONE, CAPPELLI, CARROLL, CLYMER, FABRIZIO, FAIRCHILD, GEORGE, GERGELY, GIBBONS, HALUSKA, HENNESSEY, HUTCHINSON, JAMES, KORTZ, KOTIK, MARKOSEK, McILHATTAN, M. O'BRIEN, SCAVELLO, SONNEY, TRUE, EVERETT, LONGIETTI, COX, GINGRICH, STURLA, FLECK, DERMODY, HORNAMAN, PASHINSKI AND SIPTROTH, APRIL 18, 2007

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 17, 2007

AN ACT

1 Amending the act of November 10, 1999 (P.L.491, No.45), entitled
2 "An act establishing a uniform construction code; imposing
3 powers and duties on municipalities and the Department of
4 Labor and Industry; providing for enforcement; imposing
5 penalties; and making repeals," defining "council"; and <—
6 establishing the Uniform Construction Code Review and
7 Advisory Council; AND FURTHER PROVIDING FOR REVISED OR <—
8 SUCCESSOR CODES AND FOR TRAINING OF INSPECTORS.

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

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

14 Section 103. Definitions.

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

18 * * *

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

3 * * *

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

5 Section 107. Uniform Construction Code Review and Advisory
6 Council.

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

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

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

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

18 (i) The Governor.

19 (ii) The Secretary of Labor and Industry.

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

22 (iv) The President pro tempore of the Senate.

23 (v) The Speaker of the House of Representatives.

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

26 (3) Review new and amended provisions contained in
27 triennial revisions by the ICC to any of the ICC codes which <—
28 have been adopted by regulation as part of the Uniform
29 Construction Code and provide advice to the department within
30 120 days after the publication of the revisions in accordance

1 ~~with section 304(d).~~ OF THE CODES ISSUED BY THE INTERNATIONAL ←
2 CODE COUNCIL TO ANY OF ITS CODES. THE COUNCIL SHALL INFORM
3 THE DEPARTMENT OF ANY CODE PROVISIONS THAT SHOULD BE EXCLUDED
4 FROM THE UNIFORM CONSTRUCTION CODE BY MAY 1 OF THE YEAR OF
5 ISSUANCE OF THE LATEST TRIENNIAL CODE ISSUED BY THE
6 INTERNATIONAL CODE COUNCIL.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (13) A licensed electrical engineer from an association
30 representing the electrical construction industry who has

1 recognized ability and experience in the design and
2 construction of buildings.

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

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

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

11 (17) An individual from an association representing
12 manufactured and modular housing who shall be knowledgeable, <—
13 licensed or certified to sell and install manufactured and <—
14 modular housing.

15 (18) AN OFFICIAL OF A CITY OF THE FIRST CLASS WHO HAS <—
16 RECOGNIZED ABILITY AND EXPERIENCE IN THE ADMINISTRATION AND
17 ENFORCEMENT OF THIS ACT.

18 (19) AN INDIVIDUAL FROM AN ASSOCIATION REPRESENTING ONLY
19 MODULAR HOUSING MANUFACTURERS, WHO IS KNOWLEDGEABLE, LICENSED
20 OR CERTIFIED UNDER THE ACT OF MAY 11, 1972 (P.L.286, NO.70),
21 KNOWN AS THE INDUSTRIALIZED HOUSING ACT, TO MANUFACTURE AND
22 SELL MODULAR HOMES IN PENNSYLVANIA.

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

26 (d) Vacancies.--Vacancies on the council shall be filled in
27 the same manner in which they were originally designated, within
28 30 business days of the vacancy. If the Governor fails to act
29 within the 30 business days, the council chairperson shall
30 appoint an individual to fill the vacancy.

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

3 (f) Terms.--A member of the council shall serve terms of two
4 years and until his successor is appointed beginning July 1,
5 2007, except the initial term of members appointed under
6 subsection (c)(1), (3), (4), (5), (8), (11), (13) and (14) shall
7 be for three years and until their successor is appointed.

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

11 (h) Quorum and consensus.--Nine TEN members shall constitute <—
12 a quorum, and a consensus among at least nine TEN members must <—
13 be reached before any ~~recommendation~~ DETERMINATION can be made <—
14 by the council.

15 (i) Meetings.--Meetings shall be held in Harrisburg in
16 locations provided by the department. The meetings shall also be
17 conducted as required by 65 Pa.C.S. Ch. 7 (relating to open
18 meetings) as follows:

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

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

27 (3) The council shall publish a schedule of its meetings
28 in the Pennsylvania Bulletin and in at least one newspaper of
29 general circulation. The notice shall be published at least
30 five business days in advance of each meeting. The notice

1 shall specify the date, time and place of the meeting and
2 shall state that the meetings of the council are open to the
3 general public.

4 (j) Administrative support.--The secretary shall provide the <—
5 administrative support necessary for the functions of the
6 council. A FACILITY FOR COUNCIL MEETINGS UNDER THIS ACT, <—
7 STENOGRAPHIC SERVICES AND REQUIRED NOTICE OF THE COUNCIL'S
8 MEETINGS.

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

15 (l) Compensation and expenses.--Members of the council shall
16 not receive a salary or per diem allowance for their service. <—
17 but shall be reimbursed for reasonable travel expenses and other <—
18 necessary expenses, at a rate to be determined by the secretary,
19 while attending council meetings.

20 ~~(m) Commonwealth Document Law and Regulatory Review Act.~~
21 ~~The council shall not be subject to the provisions of the act of~~
22 ~~July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth~~
23 ~~Documents Law, or the act of June 25, 1982 (P.L.633, No.181),~~
24 ~~known as the Regulatory Review Act.~~

25 Section 3. Section 304(a) of the act, amended February 19,
26 2004 (P.L.141, No.13), is amended and the section is amended by
27 adding a subsection to read:

28 Section 304. Revised or successor codes.

29 (a) Building code.--

30 (1) Subject to sections 105(c) and (d), 301(a)(3), (4),

1 (5), (6) and (7), (c) and (d) and 302, by December 31 of the
2 year of the issuance of a new triennial [BOCA National] ICC <—
3 INTERNATIONAL Building Code, or its successor building code,
4 ~~but no sooner than receiving a determination from the council~~ <—
5 ~~as provided in subsection (d), or 210 days after publication~~
6 ~~of a triennial revision, whichever first occurs,~~ the
7 department shall promulgate regulations adopting the new code
8 as the Uniform Construction Code, ~~except as may be required~~ <—
9 ~~by subsection (d).~~ [.] UNLESS THE COUNCIL INFORMS THE <—
10 DEPARTMENT THAT IT SHOULD EXCLUDE ANY PROVISIONS OF THE
11 TRIENNIAL CODE FROM THE UNIFORM CONSTRUCTION CODE. IF THE
12 COUNCIL PROVIDES THIS NOTIFICATION, THE DEPARTMENT SHALL
13 SUBMIT REGULATIONS ADOPTING THE TRIENNIAL CODE WITH
14 PROVISIONS OMITTED BY THE COUNCIL UNDER THIS SECTION WITHIN
15 90 DAYS FOLLOWING COUNCIL NOTIFICATION.

16 (2) Subject to sections 105(c) and (d), 301(a)(3), (4),
17 (5), (6) and (7), (c) and (d) and 302, by December 31 of the
18 year of issuance of a new triennial ICC [International One
19 and Two Family Dwelling Code] International Residential Code
20 ~~for One and Two Family Dwellings~~, or its successor building <—
21 code, ~~but no sooner than receiving a determination from the~~ <—
22 ~~council as provided in subsection (d), or 210 days after~~
23 ~~publication of a triennial revision, whichever first occurs,~~
24 the department shall promulgate regulations providing that
25 all detached one-family and two-family dwellings and one-
26 family townhouses that are not more than three stories in
27 height and their accessory structures may be designed in
28 accordance with that code, ~~except as may be required by~~ <—
29 ~~subsection (d)~~ or the {Uniform Construction Code} <—
30 International Building Code at the option of the building

1 permit applicant. THE DEPARTMENT SHALL PROMULGATE REGULATIONS <—
2 ADOPTING THE NEW CODE AS THE UNIFORM CONSTRUCTION CODE UNLESS
3 THE COUNCIL INFORMS THE DEPARTMENT THAT IT SHOULD EXCLUDE ANY
4 PROVISIONS OF THE TRIENNIAL CODE FROM THE UNIFORM
5 CONSTRUCTION CODE. IF THE COUNCIL PROVIDES THIS NOTIFICATION,
6 THE DEPARTMENT SHALL SUBMIT REGULATIONS ADOPTING THE
7 TRIENNIAL CODE WITH PROVISIONS OMITTED BY THE COUNCIL UNDER
8 THIS SECTION WITHIN 90 DAYS FOLLOWING COUNCIL NOTIFICATION.

9 * * *

10 (d) Code revisions.--

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

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

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

25 (iii) The technical feasibility of the provisions.

26 (2) When adopting new THE LATEST triennial versions of <—
27 the ICC codes pursuant to subsection (a) for which the <—
28 council has recommended revisions under paragraph (1), the
29 department shall issue proposed regulations as required by
30 the act of June 25, 1982 (P.L.633, No.181), known as the

1 ~~Regulatory Review Act, adopting the new ICC version as~~
2 ~~amended. In the event of proposed regulations, the December~~
3 ~~31 deadline in subsection (a) shall be waived.~~, THE ←
4 DEPARTMENT SHALL EXCLUDE A SPECIFIC NEW OR AMENDED CODE
5 PROVISION REJECTED BY THE COUNCIL UNDER PARAGRAPH (1) AND
6 SHALL PROVIDE THAT THE RELEVANT PROVISIONS OF THE PRIOR
7 VERSIONS OF THE CODE SHALL REMAIN IN EFFECT.

8 SECTION 4. SECTION 701(A) AND (B) OF THE ACT, AMENDED JULY
9 7, 2006 (P.L.1052, NO.108), ARE AMENDED TO READ:

10 SECTION 701. TRAINING OF INSPECTORS.

11 (A) TRAINING PROGRAM.--THE DEPARTMENT, IN CONSULTATION WITH
12 THE ADVISORY BOARD, [BOCA] ICC, NCSBCS AND OTHER INTERESTED
13 PARTIES, SHALL BY REGULATION ADOPT A PROGRAM OF REQUIRED
14 TRAINING AND CERTIFICATION FOR ALL CATEGORIES OF CODE
15 ADMINISTRATORS. THIS EDUCATION PROGRAM SHALL INCLUDE
16 ACCESSIBILITY REQUIREMENTS CONTAINED IN AND REFERENCED BY THE
17 UNIFORM CONSTRUCTION CODE. THE DEPARTMENT MAY CONTRACT WITH
18 THIRD PARTIES TO PROVIDE THE CODE TRAINING AND TESTING PROGRAMS.

19 (B) CATEGORIES OF INSPECTORS.--

20 (1) THE DEPARTMENT, IN CONSULTATION WITH [BOCA] THE ICC
21 AND OTHER INTERESTED PARTIES, SHALL ESTABLISH APPROPRIATE
22 CATEGORIES OF CODE ADMINISTRATORS.

23 (2) A CODE ADMINISTRATOR MAY ACT IN PLACE OF A LUMBER
24 GRADING OR INSPECTION AGENCY TO SATISFY THE REQUIREMENT SET
25 FORTH UNDER SECTION 2303.1.1 OF THE 2003 INTERNATIONAL
26 BUILDING CODE OR ITS SUCCESSOR CODE OR SECTION R404.2.1,
27 R502.1, R602.1 OR R802.1 OF THE 2003 INTERNATIONAL
28 RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS OR ITS
29 SUCCESSOR CODE.

30 * * *

1 Section 4 5. This act shall take effect in 60 days.

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