**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3769**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bales, Sandifer and Stewart

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Companion/Similar bill(s): 618

Introduced in the House on March 25, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Building codes

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/25/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\03-25-09.docx)‑54

3/25/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\03-25-09.docx)‑55

4/22/2009 House Member(s) request name added as sponsor: Stewart

**VERSIONS OF THIS BILL**

[3/25/2009](file:///p:\pprever\2009-10\3769_20090325.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6‑9‑140 SO AS TO ADOPT SEISMIC AND WIND MAPS FOR THE STATE; BY ADDING SECTION 6‑9‑150 SO AS TO ESTABLISH AN APPEAL PROCEDURE FOR A BUILDER FROM THE LOCAL BUILDING COUNCIL TO THE STATE LEVEL; TO AMEND SECTION 6‑8‑20, RELATING TO THE RESPONSIBILITY OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO DESIGNATE THE COUNCIL IN THE MATTERS RELATING TO RESIDENTIAL INSPECTION OR ENFORCEMENT; TO AMEND SECTION 6‑9‑5, AS AMENDED, RELATING TO THE REQUIREMENT THAT A PERSON PERFORMING BUILDING CODE ENFORCEMENT MUST BE CERTIFIED, SO AS TO REQUIRE THIS PERSON TO BE CERTIFIED BY THE SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6‑9‑20, AS AMENDED, RELATING TO THE AUTHORITY OF MUNICIPALITIES AND COUNTIES TO ESTABLISH AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES TO ISSUE PERMITS AND ENFORCE BUILDING CODES, SO AS TO MAKE TECHNICAL CHANGES CONSISTENT WITH NAMING OF THE BUILDING CODES COUNCILS; TO AMEND SECTION 6‑9‑40, AS AMENDED, RELATING TO THE BUILDING CODE ADOPTION PROCEDURE, SO AS TO CREATE A SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL AND THE SOUTH CAROLINA COMMERCIAL BUILDING CODES COUNCIL AND PROVIDE THAT THE TWO COUNCILS SHALL PROMULGATE REGULATIONS ADOPTING THE SOUTH CAROLINA BUILDING CODES AND SUBMIT THEM TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF CHAPTER 23, TITLE 1 (ADMINISTRATIVE PROCEDURES ACT); TO AMEND SECTION 6‑9‑50, AS AMENDED, RELATING TO THE MANDATORY ADOPTION OF CERTAIN NATIONALLY RECOGNIZED CODES AND STANDARDS, SO AS TO ESTABLISH RESPONSIBILITY FOR THE SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL TO BE RESPONSIBLE FOR ADOPTION AND MODIFICATION OF THE RESIDENTIAL SECTIONS OF THE SOUTH CAROLINA BUILDING CODES COUNCIL AND THE SOUTH CAROLINA COMMERCIAL BUILDING CODES COUNCIL TO BE RESPONSIBLE FOR THE ADOPTION OF ALL OTHER CODES LISTED IN THE SECTION; TO AMEND SECTION 6‑9‑63, RELATING TO THE MEMBERSHIP OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO CHANGE THE COMPOSITION OF THE COUNCILS FOR PURPOSES OF CREATING THE SOUTH CAROLINA COMMERCIAL BUILDING CODES COUNCIL AND ESTABLISH A SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL AND PROVIDE FOR THEIR COMPOSITION; TO AMEND SECTION 6‑9‑80, AS AMENDED, RELATING TO THE INJUNCTIVE RELIEF AND OTHER PROCEEDINGS FOR VIOLATION OF CHAPTER 9, TITLE 6, SO AS TO MAKE VIOLATION PRECATORY INSTEAD OF MANDATORY; TO AMEND SECTION 6‑9‑105, RELATING TO VARIATIONS BASED ON PHYSICAL OR CLIMATOLOGICAL CONDITIONS, SO AS TO ADD A GEOLOGICAL CONDITION AS BASIS FOR A VARIATION; AND TO REPEAL SECTION 6‑9‑135 RELATING TO THE ADOPTION OF CERTAIN PROVISIONS IN THE 2006 INTERNATIONAL RESIDENTIAL CODE RELATING TO FLOOD COVERAGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 6 of the 1976 Code is amended by adding:

“Section 6‑9‑140. Extensive research in South Carolina has shown that the seismic and wind maps for South Carolina in the 2006 and 2009 International Residential Code (IRC) building code are incorrect, but is corrected in the 2012 IRC building code. The 2006 and 2009 South Carolina Building Code is modified to include the seismic maps produced by The Citadel and Clemson University and presented to the South Carolina Building Codes Council in February 2009.

Section 6‑9‑150. A builder who wishes to appeal a decision of a local building official may appeal it to the South Carolina Residential Building Codes Council for a residential building matter or the South Carolina Commercial Building Codes Council for a commercial building matter. The decision of these code councils is final.”

SECTION 2. Section 6‑8‑20(A) of the 1976 Code is amended to read:

“(A) The South Carolina Residential Building Codes Council is responsible for the registration of building codes enforcement officers pursuant to this chapter. The council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council. The Department of Labor, Licensing and Regulation shall employ and supervise personnel necessary for the administration of this chapter. The council may promulgate regulations for the proper enforcement of this chapter.”

SECTION 3. Section 6‑9‑5(A) of the 1976 Code, as last amended by Act 83 of 2003, is further amended to read:

“(A) The public policy of South Carolina is to maintain reasonable standards of construction in buildings and other structures in the State consistent with the public health, safety, and welfare of its citizens. To secure these purposes, a person performing building codes enforcement must be certified by the South Carolina Residential Building Codes Council, and this act is necessary to provide for certification.”

SECTION 4. Section 6‑9‑20 of the 1976 Code, as last amended by Act 83 of 2003, is further amended to read:

“Section 6‑9‑20. Municipalities and counties may establish agreements with other governmental entities of the State to issue permits and enforce building codes in order to provide the services required by this chapter. The South Carolina Building Codes ~~Council (council)~~ Councils (councils) may assist in arranging for municipalities, counties, or consultants to provide the services required by this chapter to other municipalities or counties if a written request from the governing body of the municipality or county is submitted to the council.”

SECTION 5. Section 6‑9‑40 of the 1976 Code, as last amended by Act 54 of 2007, is further amended to read:

“Section 6‑9‑40. (A) The ~~council is~~ South Carolina Residential Building Codes Council and the South Carolina Commercial Building Codes Council are authorized to review, adopt, modify, and promulgate the building codes referenced in Section 6‑9‑50, provided that:

(1) a notice of intention to adopt a code, adopt a new edition of a code, or modify an existing code must be published in the State Register as a Notice of General Interest, on websites published by the Department of Labor, Licensing and Regulation, and must be provided to each local building department with instructions for its prominent display;

(2) the notice must include:

(a) the address to which interested persons may submit written comments; and

(b) a period of not less than one hundred eighty days during which comments may be received;

(3) comments must be ~~assigned to a study committee appointed~~ reviewed by the ~~council~~ councils which shall publish Notice of General Interest in the same manner as provided in item (1) setting out the ~~committee’s~~ councils’ scope of review. The notice must give instructions for filing an intention to appear before or provide evidence or comments to the ~~committee~~ councils, or both. ~~The committee must be comprised of at least three people with different technical backgrounds~~; ~~and~~

(4) the ~~committee~~ councils shall hold at least one public meeting~~,~~ to accept evidence and comments~~, and make a written recommendation to the council~~ on the proposed changes in the specific building code. Within one hundred eighty days from the end of the comment period, the council shall adopt, modify, or deny the recommendations ~~from the committee~~. The ~~council~~ councils may modify or amend the code after a finding on the record that the modifications provide a reasonable degree of public health, safety, and welfare.

~~Any amended or modified code shall be codified as provided for in Section 1‑23‑90. The council shall determine whether the amended or modified code becomes effective on the first day of January or July.~~

(5) the councils shall promulgate the South Carolina Building Codes, or an updated version of the South Carolina Building Code, and the modification of these codes referenced in Section 6‑9‑50 and submit them to the General Assembly for approval before implementation; and

(6) The promulgated code becomes effective the first day of January or July which is more than six months from the effective date of the regulation.

(B)(1) If it is discovered at any time between building code cycles that an existing building code requirement constitutes a new threat to the life or safety of building occupants that was unknown when the building code was last approved, an emergency building code modification may be made by the council. An emergency building code modification ~~shall take~~ takes effect on a date established by the ~~council~~ councils.

(2) The ~~council must~~ councils shall provide notice of a request for an emergency building code modification in the same manner as required for a regular ~~council~~ councils meeting.

(3) The ~~council must~~ councils shall conduct a hearing to consider an emergency building code modification at an open ~~council~~ councils meeting, and all proponents and opponents must be given ample time to state their positions.

(C) Modifications promulgated pursuant to this section do not require readoption by the ~~council~~ councils for subsequent editions of the building codes. Upon submission of a formal request, existing modifications ~~shall~~ must be reconsidered each time a new edition of the building code is considered for adoption by the ~~council~~ councils.”

SECTION 6. Section 6‑9‑50(A), (D), and (E) of the 1976 Code, as last amended by Act 83 of 2003, is further amended to read:

“(A) The ~~council~~ councils shall adopt by reference and amend only the latest editions of the following nationally recognized codes and the standards referenced in those codes for regulation of construction within this State: building, residential, gas, plumbing, mechanical, fire, and energy codes as promulgated, published, or made available by the International Code Council, Inc. and the National Electrical Code as published by the National Fire Protection Association. The South Carolina Residential Building Codes Council is responsible only for the adoption and modification of the residential sections of the South Carolina Building Code referenced through the International Residential Code (IRC). The South Carolina Commercial Building Codes Council is responsible for the adoption of all other building codes cited in this subsection. The appendices of the codes provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption. However, the provisions of the codes referenced in this section which concern the qualification, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, other inspectors, and assistants do not apply unless they have been adopted by the municipal or county governing body.

(D) All referenced codes adopted by the ~~council shall~~ councils must be accessible at no cost to the public through the Department of Labor, Licensing and Regulation’s Internet web page as a ‘read only’ document.

(E) Notwithstanding any provision of the referenced codes adopted by the ~~council~~ South Carolina Residential Building Codes Council, a home with three floors of living space constructed on a raised foundation which is not used as living space is considered a three-story building for the purposes of issuing a building permit to a person licensed under ~~Title 40,~~ Chapters 11 and 59, Title 40. ~~Any~~ A person authorized in South Carolina to design and construct buildings up to three stories is authorized to design and construct buildings described by this section.”

SECTION 7. Section 6‑9‑63 of the 1976 Code, as added by Act 83 of 2003, is amended to read:

“Section 6‑9‑63. (A) Each member of the ~~council~~ councils must be appointed by the Governor for a term of four years and until a successor is appointed and ~~qualifies~~ qualified.

(B) The South Carolina Commercial Building Codes Council consists of ~~sixteen~~ nine members composed of:

(1) an architect licensed in South Carolina;

(2) an engineer licensed in South Carolina from a list of qualified candidates submitted to the Governor by the South Carolina Council of Engineering and Surveying Societies;

(3) ~~a residential home builder licensed in South Carolina from a list of qualified candidates submitted to the Governor by the Home Builders Association of South Carolina;~~

~~(4)~~ a general contractor licensed in South Carolina from a list of qualified candidates submitted to the Governor by the Association of General Contractors;

~~(5)~~ ~~a representative of the modular building industry from a list of qualified candidates submitted to the Governor by the Manufactured Housing Institute of South Carolina;~~

~~(6)~~ ~~a code enforcement officer registered in South Carolina;~~

~~(7)~~(4) a fire marshal or fire chief designated by the State Fire Marshal;

~~(8)~~(5) a municipal administrator, manager, or elected official;

~~(9)~~ ~~a county administrator, manager, or elected official;~~

~~(10)~~(6) a representative designated by the State Engineer of the State Budget and Control Board;

~~(11)~~ ~~a representative of the general public who is not in the practice of home or commercial safety inspection, construction, or building, and who does not have any financial interest in these professions, and who does not have any immediate family member in these professions;~~

~~(12)~~(7) a disabled person;

~~(13)~~ ~~a representative of the property, casualty insurance industry;~~

~~(14)~~(8) a representative of the electrical industry who is either an engineer licensed in South Carolina or a master electrician from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina; and

~~(15)~~(9) a representative of the mechanical or gas industry who is either an engineer licensed in South Carolina or a master mechanic from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina~~; and~~

~~(16)~~ ~~a representative of the plumbing industry who is either an engineer registered in South Carolina or a master plumber from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina~~.

(C) The South Carolina Residential Building Codes Council consists of seven members composed of:

(1) a code enforcement officer registered in South Carolina;

(2) a residential home builder licensed in South Carolina from a list of qualified candidates submitted to the Governor by the Home Builders Association;

(3) a representative of the modular building industry from a list of qualified candidates submitted to the Governor by the Manufactured Housing Institute of South Carolina;

(4) a county administrator, manager, or elected official;

(5) a representative of the general public who is not in the practice of home or commercial safety inspection, construction, or building, and who does not have any financial interest in these professions, and who does not have any immediate family member in these professions;

(6) a representative of the property, casualty insurance industry; and

(7) a representative of the plumbing industry who is either an engineer registered in South Carolina or a master plumber from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina.

~~(B)~~(D) A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term.

~~(C)~~(E) The primary function of the ~~council~~ councils is to accept all requests for variation from the series of codes listed in this chapter and to determine which variations, if any, are justified by local conditions and can be enacted after a finding on the record that the modification provides a reasonable degree of public health, safety, and welfare.

~~(D)~~(F) Each member of the ~~council~~ councils shall receive mileage, subsistence, and per diem as provided for other state boards, committees, or commissions for attendance at board meetings called by the chairman.

~~(E)~~(G) The ~~council~~ councils shall elect from ~~its~~ their members a chairman and vice chairman. The ~~council~~ councils shall adopt regulations consistent with this chapter. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three or more members of the ~~council~~ councils. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven days before the meeting. ~~Nine~~ A majority of a councils members ~~constitute~~ constitutes a quorum. Each meeting is open to the public. An official decision of the ~~council~~ councils may be made only by a vote of at least ~~two‑thirds~~ a majority of those members in attendance at the meeting.”

SECTION 8. Section 6‑9‑80(B) of the 1976 Code, as last amended by Act 83 of 2003, is further amended to read:

“(B) A person found to be in violation of a building code or regulation adopted pursuant to the provisions of this chapter ~~must~~ may be cited and fined, by civil fine, in an amount not more than two hundred dollars. Before being charged with a second violation, the person must be given seven calendar days to remedy the violation or submit a plan for correcting the violation.”

SECTION 9. Section 6‑9‑105 of the 1976 Code, as added by Act 83 of 2003, is amended to read:

“Section 6‑9‑105. (A) If a municipality or county contends that the codes authorized by this chapter do not meet its needs due to local physical or climatological conditions, the proposed variations and modifications must be submitted to the ~~council~~ councils.

(B) The ~~council~~ councils may issue an approval after a finding on the record that the variation or modification provides a reasonable standard of public health, safety, and welfare.

(C) Where a boundary for a physical, geological, or climatological condition is referenced in a code, the ~~council~~ councils, upon adoption of the code, is required to define the boundary so that it approximates the physical or climatological area, using logical geographic features such as major highways, waterbodies, or ridgelines. Political boundaries may ~~not~~ be used ~~unless~~ when they approximate the physical area.”

SECTION 10. Section 6‑9‑135 of the 1976 Code is repealed.

SECTION 11. This act takes effect upon approval by the Governor.

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