~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 2, 2009

**S. 268**

Introduced by Senator McConnell

S. Printed 4/2/09--H.

Read the first time February 19, 2009.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 268) to amend Chapter 8, Title 6, Code of Laws of South Carolina, 1976, relating to building codes enforcement officers, so as to establish a “special inspector”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 8, Title 6 of the 1976 Code is amended to read:

“CHAPTER 8

Building Codes Enforcement Officers

Section 6‑8‑10. ~~When~~ As used in this chapter:

(1) ‘Building codes enforcement officer’ means a person employed by a ~~public entity~~ local jurisdiction, who is ~~primarily~~ responsible for ~~the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer~~ administering a building inspection department, enforcement or rendering interpretations of building, residential, plumbing, electrical, mechanical, fuel gas and energy conservation codes, performing building plans review, or performing inspections on one or more building systems.

(2) ‘Construction trade discipline’ means a discipline, other than any activity regulated by Chapter 13, Title 46, related to the construction of a building including, but not limited to, building, electrical, gas, plumbing, mechanical, or energy services.

(3) ‘Contract inspector’ means a person certified to perform a building inspection, other than a special inspection, in a construction trade discipline within a local jurisdiction on a contract basis.

(4) ‘Local jurisdiction’ means a municipality or county of this State.

(5) ‘Special inspector’ means a person certified to perform special inspections in one or more construction trade disciplines pursuant to the International Building Code.

(6) ‘Special registration’ means a current authorization issued by the South Carolina Building Codes Council for a person who holds a certification by a recognized code organization, approved by the council, in no more than one construction trade discipline.

(7) ‘General registration’ means a current authorization issued by the South Carolina Building Codes Council for a person certified in multiple construction trade disciplines by a code organization recognized and approved by the council.

Section 6‑8‑20. (A) The South Carolina Building Codes Council is responsible for the registration of a building codes enforcement ~~officers~~ officer, contract inspector, and special inspector pursuant to this chapter. The council or its designated ~~representatives~~ representative 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~~ needed to administer this chapter. The council may promulgate regulations for the proper enforcement of this chapter.

(B) The council shall keep a record of its hearings and proceedings and ~~a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence~~ ~~of the applicant and whether the certificate is approved or denied. The council shall publish biannually during odd numbered years the applications in the register which are approved. Applicants and Registrants~~ publish a roster of its registrants. A registrant shall notify the council of ~~changes~~ a change in required information within ten days of ~~a~~ the change.

Section 6‑8‑30. (A) Certificates of registration ~~may be~~ issued without examination to building codes enforcement officers employed in codes enforcement ~~on the effective date of this chapter~~ by July 2, 2003, remain valid only for the position and locality held at the time of registration ~~pursuant to this section. This registration is valid for two years~~ and may be renewed.

(B) Upon initial employment by a ~~political subdivision~~ local jurisdiction, an uncertified individual must be granted a provisional ~~certificate of~~ registration without examination which is valid from the date the individual is assigned to perform code enforcement, for the time period ~~stipulated~~ authorized by regulation for ~~each~~ the requested registration classification ~~from the date of issuance~~. A current or previously registered individual holding all certifications required for the registration classification for which the person was hired, may be granted a provisional registration for a different classification. The provisional ~~certificate of~~ registration may not be renewed.

“Section 6‑8‑40. ~~No person may practice as a codes enforcement officer in this State unless registered as provided in this chapter. A person violating the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. Each day the violation continues is a separate offense.~~

(A) Unless registered pursuant to the requirements of this chapter, a person may not practice as a code enforcement officer, contract inspector, or special inspector in this State, except an architect licensed by the Board of Architectural Examiners of this State or an engineer registered by the Board of Professional Engineers and Land Surveyors of this State may practice as a special inspector without additional registration required by this chapter.

(B) It is unlawful to act as a building codes enforcement officer, contract inspector, or special inspector without having first obtained authorization from the Building Codes Council and the Department of Labor, Licensing and Regulation. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days for a first violation of this section. For each subsequent violation, a person is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars.

(C) A separate violation occurs on each day of a violation.

Section 6‑8‑50. If the council has reason to believe that a person is violating or intends to violate a provision of this chapter, in addition to other remedies, it may order the person ~~immediately~~ to refrain from the conduct. The council may apply to the ~~court of common pleas~~ Administrative Law Court for an injunction restraining the person from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or order pursuant to this section.

Section 6‑8‑60. (A) A person ~~desiring to be registered as a building codes enforcement officer~~ seeking registration as required by this chapter shall apply ~~upon~~ on a form prescribed by the council.

(B) An applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency in the general or special ~~capacity in which he desires to be registered~~ construction trade discipline for which he is employed to perform an inspection. A special ~~certificates of~~ registration ~~authorize~~ authorizes the registrant to practice in the named ~~specialty~~ construction discipline only. A general ~~certificates of~~ registration ~~are not restricted~~ authorizes a registrant to practice in all construction trade disciplines for which certification has been obtained. The council or its designated representatives shall review the guidelines employed by the code organization or testing agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with this chapter.

(C) A local jurisdiction may impose additional requirements upon a person employed as a building codes enforcement officer or contract inspector in its jurisdiction.

Section 6-8-70. (A) ~~A certificate of registration is valid for two years and expires~~ All registrations, except provisional, expire on July first of each odd-numbered year unless renewed before that date. Renewal of ~~all registrations~~ a registration must be based upon a determination by council of the applicant’s participation in approved continuing education ~~programs~~. The council ~~must~~ may promulgate regulations setting forth the continuing education requirements for ~~building codes enforcement officers~~ a registrant. A person failing to ~~make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants and~~ renew registration by the expiration date may not practice until registered in accordance with this chapter and shall qualify in the manner provided for new registrants.

(B) Funding for the certification, training, and continuing education of building code enforcement officers employed by local jurisdictions must be appropriated to the Department of Labor, Licensing and Regulation in the manner provided in Section 38‑7‑35.

(C) Certification, training, and continuing education of building code enforcement officers providing inspection services to local jurisdictions on a contractual basis do not qualify for funding as provided in subsection (B).”

SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 9. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

WILLIAM D. SANDIFER for Committee.

**A** **BILL**

TO AMEND CHAPTER 8, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BUILDING CODES ENFORCEMENT OFFICERS, SO AS TO ESTABLISH A “SPECIAL INSPECTOR” OR “SPECIAL INSPECTION AGENCY” TO PERFORM BUILDING INSPECTIONS IN ONE OR MORE CONSTRUCTION TRADE DISCIPLINES, AND TO PROVIDE THE LICENSING PROCEDURE TO REQUIRE AUTHORIZATION FOR PERFORMING THESE INSPECTIONS FROM THE SOUTH CAROLINA BUILDING CODES COUNCIL AND THE DEPARTMENT OF LABOR, LICENSING AND REGULATION.

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

SECTION 1. Chapter 8, Title 6 of the 1976 Code is amended to read:

“CHAPTER 8

Building Codes Enforcement Officers

Section 6‑8‑10. When used in this chapter ~~‘building codes enforcement officer’ means a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.~~:

(1) ‘Building codes enforcement officer’ means a person employed by a local jurisdiction and responsible for:

(a) administering a building inspecting department for the local jurisdiction; or

(b) reviewing building plans for compliance with, performing building inspections for compliance with, rendering interpretations of or enforcement of a building, residential, gas, electrical, plumbing, mechanical, or energy code adopted pursuant to Section 6‑9‑50.

(2) ‘Contract inspection agency’ means an entity that provides an inspection service to a local jurisdiction on a contract basis.

(3) ‘Construction trade discipline’ means a discipline related to the construction of a building including, but not limited to, building, electrical, gas, plumbing, mechanical, or energy services.

(4) ‘Contract inspector’ means a person certified to perform a building inspection, other than a special inspection, in a construction trade discipline within a local jurisdiction on a contract basis.

(5) ‘Entity’ means a sole proprietorship, partnership, limited liability partnership, limited liability company, association, joint venture, cooperative, corporation, or another legal entity organized pursuant to the law of this State.

(6) ‘Local jurisdiction’ means a municipality or county of this State.

(7) ‘Special inspection agency’ means an entity that provides a special inspection.

(8) ‘Special inspector’ means a person certified to perform special inspections in one or more construction trade disciplines pursuant to the International Building Code.

(9) ‘Special registration’ means a current authorization issued by the South Carolina Building Codes Council for a person who holds a certification by a recognized code organization, approved by the council, in no more than one construction trade discipline.

(10) ‘General registration’ means a current authorization issued by the South Carolina Building Codes Council for a person certified in multiple construction trade disciplines by a code organization recognized and approved by the council.

Section 6‑8‑20. (A) The South Carolina Building Codes Council is responsible for the registration of a building codes enforcement ~~officers~~ officer, contract inspector, contract inspection agency, special inspector, and special inspection agency pursuant to this chapter. The council or its designated ~~representatives~~ representative 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~~ needed to administer this chapter. The council may promulgate regulations for the proper enforcement of this chapter.

(B) The council shall keep a record of its hearings and proceedings and ~~a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish biannually during odd‑numbered years the applications in the register which are approved. Applicants and registrants~~ publish a roster of its registrants. A registrant shall notify the council of ~~changes~~ a change in required information within ten days of ~~a~~ the change.

Section 6‑8‑30. (A) ~~Certificates~~ A certificate of registration may be issued without examination to a building codes enforcement ~~officers~~ officer employed in codes enforcement on ~~the effective date of this chapter~~ July 2, 2003, but only for the position and locality held at the time of registration pursuant to this section. This registration is valid for two years and may be renewed.

(B) Upon initial employment ~~by a political subdivision~~ as a building codes enforcement officer by a local jurisdiction, an uncertified individual must be granted a provisional ~~certificate of~~ registration without examination ~~which~~ that is valid from the date of employment for the time period ~~stipulated~~ stated by regulation for ~~each~~ a registration classification ~~from the date of issuance~~ pending certification. The provisional ~~certificate of~~ registration may not be renewed.

Section 6‑8‑40. ~~No person may practice as a codes enforcement officer in this State unless registered as provided in this chapter. A person violating the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. Each day the violation continues is a separate offense.~~

(A) Unless registered pursuant to the requirements of this chapter:

(1) a person may not practice as a codes enforcement officer, contract inspector, or special inspector in this State, except an architect licensed by the Board of Architectural Examiners of this State or an engineer registered by the Board of Professional Engineers and Land Surveyors of this State may practice as a special inspector without additional registration required by this chapter; and

(2) a person or entity may not practice as a contract inspection agency or special inspection agency in this State.

(B) It is unlawful to act as a building codes enforcement officer, contract inspector, contract inspection agency, special inspector, and special inspection agency without having first obtained authorization from the Building Codes Council and the Department of Labor, Licensing and Regulation.

(1) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

(2) An entity violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars and may be enjoined from engaging in the practice that constituted a violation.

(C) A separate violation occurs on each day of a violation.

Section 6‑8‑50. If the council has reason to believe that a person or entity is violating or intends to violate a provision of this chapter, in addition to other remedies, it may order the person or entity ~~immediately~~ to immediately refrain from the conduct. The council may apply to the ~~court of common pleas~~ Administrative Law Court for an injunction restraining the person or entity from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. ~~No~~ A bond is not required of the council by the court as a condition to the issuance of an injunction or order pursuant to this section.

Section 6‑8‑60. (A) A person ~~desiring to be registered as a building codes enforcement officer~~ or entity seeking registration as required by this chapter shall apply ~~upon~~ on a form prescribed by the council.

(B) An applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency in the general or special ~~capacity in which he desires to be registered~~ construction trade discipline for which he is employed to perform an inspection. A special ~~certificates of~~ registration ~~authorize~~ authorizes the registrant to practice in the named ~~specialty~~ construction discipline only. A general ~~certificates of~~ registration ~~are not restricted~~ authorizes a registrant to practice in all construction trade disciplines for which certification has been obtained. The council or its designated representatives shall review the guidelines employed by the organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with this chapter.

(C) A local jurisdiction may impose additional requirements upon a person employed as a building codes enforcement officer, contract inspector, or contract inspection agency in its jurisdiction.

Section 6‑8‑70. (A) A ~~certificate of~~ registration is valid for two years and expires on July first of ~~each~~ an odd‑numbered year unless renewed before that date. A renewal of ~~all registrations~~ a registration must be based upon a determination by council of the applicant’s participation in approved continuing education ~~programs~~. The council ~~must~~ shall promulgate regulations setting forth the continuing education requirements for ~~building codes enforcement officers~~ a registrant. A person or entity failing to ~~make~~ timely make renewal ~~of his certificate~~ is not registered unless qualified in the manner provided for new registrants and may not practice until registered in accordance with this chapter.

(B) Funding for the certification, training, and continuing education of building code enforcement officers must be appropriated to the Department of Labor, Licensing and Regulation in the manner provided in Section 38‑7‑35.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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