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COMMITTEE REPORT

May 7, 2009

**H. 3550**

Introduced by Reps. Cato, Herbkersman, Agnew, Merrill, Stavrinakis, Funderburk, Brady, Anderson, R.L. Brown, Kelly, Limehouse, J.E. Smith, Whipper, Hutto, Allison, Parker, Sottile, Erickson and Bales

S. Printed 5/7/09--S. [SEC 5/8/09 4:03 PM]

Read the first time April 30, 2009.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3550) to amend Chapter 10, Title 6, Code of Laws of South Carolina, 1976, relating to the Building Energy Efficiency Standard Act, so as to revise the title of, etc., respectfully

**REPORT:**

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

W. GREG RYBERG for Committee.

**A** **BILL**

TO AMEND CHAPTER 10, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BUILDING ENERGY EFFICIENCY STANDARD ACT, SO AS TO REVISE THE TITLE OF THE ACT TO THE “ENERGY STANDARD ACT”, TO REVISE DEFINITIONS, TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE AS THE ENERGY STANDARD AND TO PROVIDE THAT ALL NEW AND RENOVATED BUILDINGS MUST COMPLY WITH THIS STANDARD, TO PROVIDE THAT LOCAL BUILDING OFFICIALS SHALL ENFORCE THE ENERGY STANDARD AND TO PROVIDE ALTERNATIVE ENFORCERS IN AREAS WITHOUT A BUILDING OFFICIAL, TO PROVIDE THAT BUILDING OFFICIALS SHALL ISSUE AND REVOKE BUILDING PERMITS AND INSPECT CONSTRUCTION OF BUILDINGS PURSUANT TO THE PERMITS ISSUED, TO REQUIRE LOCAL JURISDICTIONS TO PROVIDE AN APPEALS BOARD AND PROCESS FOR GRANTING OF CERTAIN VARIANCES, TO PROVIDE AN EXCEPTION AND TO ALLOW CERTAIN APPEALS TO BE HEARD BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, AND TO PROVIDE THAT A PERSON OR PARTY MAY OBTAIN INJUNCTIVE RELIEF; AND TO AMEND SECTION 6‑9‑50, AS AMENDED, RELATING TO THE MANDATORY ADOPTION OF CERTAIN NATIONAL BUILDING CODES, BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO CODE DOCUMENTS, AND THREE STORY HOMES, SO AS TO DELETE PROVISIONS RELATING TO WHAT CONSTITUTES COMPLIANCE WITH THE BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO DOCUMENTS CONTAINING CODES ADOPTED BY THE BUILDING CODES COUNCIL, AND BUILDING PERMITS FOR THREE STORY HOMES.

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

SECTION 1. Chapter 10, Title 6 of the 1976 Code is amended to read:

“CHAPTER 10

~~Building~~ Energy ~~Efficiency~~ Standard Act

Section 6‑10‑10. This chapter may be cited as the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard Act.

Section 6‑10‑20. ~~Wherever~~ As used ~~or referred to~~ in this chapter, ~~the terms defined herein have the meanings assigned to them~~ unless a different meaning is clearly indicated by the context~~.~~:

~~(1)~~ ~~‘Building’ means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any occupancy. The word ‘building’ shall be construed wherever used herein as if followed by the words ‘or part or parts thereof and all equipment therein’ unless the context clearly requires a different meaning. The term ‘building’ shall include manufactured buildings but not mobile homes or buildings heated to less than fifty degrees Fahrenheit.~~

~~(2)~~ ~~‘Construction’ means the erection, fabrication, reconstruction, demolition, alteration, conversion, or repair of a building, or the installation of equipment therein.~~

~~(3)~~ ~~‘Equipment’ means facilities or installation, including, but not limited to plumbing, heating, electrical, ventilating, air conditioning, lighting, refrigerating facilities or installations, and elevators, dumbwaiters, escalators, boilers, and pressure vessels.~~

~~(4)~~ ~~‘Local enforcement agency means the agency of a local government with authority to make energy related inspections of buildings and to enforce the laws, ordinances, and regulations enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair and occupancy of buildings.~~

~~(5)~~ ~~‘Local government’ means any county, city, municipal corporation, or other political subdivision of this State and state agencies with authority to establish energy standards and requirements applicable to the construction, alteration, repair and occupancy of buildings.~~

~~(6)~~ ~~‘Renovations’ means the condition where within any twelve‑month period, alterations or repairs costing in excess of fifty percent of the then physical value of the building are made to an existing building.~~

~~(7)~~ ~~‘Addition’ means the extension or increase in floor area or height of a building.~~

~~(8)~~ ~~‘One or two‑family dwelling’ means any building which contains one or two single units, each providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking, and sanitation and rented to be occupied or which is occupied for living purposes.~~

(1) ‘Addition’ means the extension or increase in floor area or height of a building.

(2) ‘Building’ means any combination of materials, which comprises a structure affording facilities or shelter for any occupancy. The word ‘building’ must be construed wherever used in this chapter as if followed by the words ‘or part or parts of the building and all equipment in the building’ unless the context clearly requires a different meaning. The term ‘building’ includes manufactured buildings but not manufactured housing or buildings heated to less than fifty degrees Fahrenheit.

(3) ‘Building inspection department’ means the agency of a local jurisdiction with authority to make energy related building inspections and to enforce state and local laws, ordinances, and regulations applicable to the construction of buildings.

(4) ‘Construction’ means the erection, fabrication, reconstruction, alteration, conversion, or repair of a building, or the installation of equipment in a building.

(5) ‘Equipment’ means components associated with plumbing, heating, electrical, ventilating, air conditioning, lighting and refrigerating systems, and elevators, dumbwaiters, escalators, boilers, and pressure vessels.

(6) ‘Local jurisdiction’ means a county, city, municipality, or other political subdivision of this State.

(7) ‘One- or two‑family dwelling’ means a building which contains one or two units, each providing complete, independent living facilities for one or more persons, including permanent provisions for sleeping, cooking, and sanitation.

(8) ‘Renovations’ means the condition where within any twelve‑month period, alterations or repairs costing in excess of fifty percent of the then physical value of the building are made to an existing building.

Section 6‑10‑30. ~~(a)~~ The ~~current~~ 2006 edition of ~~Appendix J (Code for Energy Conservation in new building construction) to the Standard Building Code of the Southern Building Code Congress International, Incorporated,~~ the International Energy Conservation Code is ~~hereby~~ adopted as the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard ~~unless otherwise provided for in this chapter~~. All new and renovated buildings and additions constructed ~~one hundred and twenty days after the effective date of this chapter~~ within the State ~~shall~~ must comply with this standard.

~~(b)~~ ~~Until one hundred and twenty days after adoption of the South Carolina Building Energy Efficiency Standard, energy related building regulations adopted by a local government shall continue in effect unless repealed. Thereafter, such regulations adopted by a local government shall be void and of no effect unless they are no less stringent than the South Carolina Building Energy Efficiency Standard. A building permit validly issued pursuant to local building regulations within one hundred and twenty days after adoption of the South Carolina Building Energy Efficiency Standard is valid thereafter and the construction of a building may be completed pursuant to and in accordance with the permit. In areas of the State having no building regulations or not requiring building permits, the construction of a building started before adoption of the South Carolina Building Energy Efficiency Standard may be completed without a building permit.~~

~~(c)~~ ~~Until one hundred and twenty days after adoption of the South Carolina Building Energy Efficiency Standard, energy related building regulations for new and renovated buildings promulgated by any state board, department, commission or agency shall continue in effect unless repealed. Thereafter, such regulations shall be void and of no effect unless they are no less stringent than the South Carolina Building Energy Efficiency Standard.~~

~~(d)~~ ~~Notwithstanding the provisions of subsection (a), in one and two family dwellings double pane or storm windows must be used for window glass and in the case of ceilings, exterior walls, floors with crawl space, and heating and air conditioning duct work, the determination of the minimum thermal resistance ratings (R‑value) must be:~~

~~(1)~~ ~~R‑30 for ceilings, except for ceiling/roof combinations, which must be R‑19;~~

~~(2)~~ ~~R‑13 for exterior walls;~~

~~(3)~~ ~~R‑19 for floors with crawl space;~~

~~(4)~~ ~~R‑6, or the installed equivalent, for heating and air conditioning duct‑work not located in conditioned space~~

~~Nothing in this subsection may be construed to inhibit utilization of higher minimum thermal ratings.~~

~~To facilitate the affordability of purchases of housing, minimum thermal resistance ratings of R‑19 for ceilings and R‑11 for floors may be used provided the builder discloses the insulation levels to the buyer. The disclosure must be on a form available from the South Carolina Residential Builders Commission and a copy must be submitted to the commission which must keep it for thirteen years.~~

Section 6‑10‑40. A local ~~enforcement agency~~ jurisdiction may ~~propose~~ appeal to the South Carolina Building ~~Code~~ Codes Council ~~changes in~~ for a variance from the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard for application within its jurisdiction ~~to cover~~ based on special local conditions ~~requiring special or different building standards~~. The council ~~shall~~ may approve ~~any of such~~ variations if it is established to the council’s satisfaction that the proposed variance:

(1) ~~The proposed change~~ is ~~sufficiently~~ consistent with ~~the South Carolina Building Energy Efficiency Standard~~ this chapter, so that its application will not ~~substantially~~ reduce statewide uniformity of ~~building regulations~~ effective energy conservation; ~~or~~

(2) ~~The proposed change~~ does not discriminate against particular technologies, techniques, or materials; ~~or~~

(3) ~~The proposed change~~ does not unnecessarily increase the cost of construction and operation of the building in the jurisdiction; or

(4) ~~The proposed change~~ is necessary to protect the public health, safety, and welfare within the jurisdiction.

Copies of ~~any~~ an approved ~~changes shall~~ variance must be provided upon the request by the ~~Council to the South Carolina Office of Energy Resources~~ State Energy Office.

Section 6‑10‑50. ~~(a)~~(A) ~~In areas of the State where local governments have adopted building codes and appointed an enforcement official, the enforcement building official shall be the local enforcement agent~~ Local building officials shall enforce the provisions of the Energy Standard.

~~(b)~~(B) In areas of the State ~~where local governments have not adopted building codes, they~~ without a building official, the local jurisdiction may designate ~~their~~ its engineer, ~~or~~ director of public works, or ~~their~~ chief fire inspector ~~as the enforcement agency, or they may call upon the South Carolina Residential Home Builders Commission to assist in enforcement for structures under their jurisdiction. In the absence or unavailability of the above, they shall advise the permittee of the provisions of the Energy Efficiency Standards Act, and the penalties for violation~~ to enforce the provisions of the Energy Standard.

Upon request, the ~~Division of Energy of the~~ State Energy Office ~~of the Governor~~ shall provide ~~to counties and municipalities~~ local jurisdictions a brief synopsis of the Energy ~~Efficiency Standards Act~~ Standard, the Residential Energy Efficiency Requirements that apply to South Carolina, and penalties.

~~(c)~~(C) The ~~local enforcement agencies shall be~~ building officials are responsible for examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, and the inspection of buildings pursuant to the provisions of the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard.

~~(d)~~ ~~In areas of the State where building codes have not been adopted, local governments shall appoint local appeals boards to hear appeals brought in accordance with Section 6‑10‑70(b) of this chapter. Until the boards are established, appeals shall be heard by the South Carolina Building Code Council. A sufficient number shall be appointed to allow appeals to be heard promptly by panels of interest in the cases before them. A local government shall be relieved of the duty to appoint local appeals boards if it is established to the satisfaction of the Council that a sufficient number of qualified people cannot be found in the jurisdiction or through cooperation with neighboring jurisdictions.~~

~~(e)~~ ~~Two or more local governments may establish a local enforcement agency or a local appeals board to serve their jurisdictions, and in this event they shall share the expense incurred.~~

~~(f)~~(D) Except as otherwise provided in the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard, the construction of a building ~~shall~~ must not begin until a building permit is issued. Upon submission of an application to ~~a local enforcement agency~~ the building official, if the building proposed to be erected will comply with this chapter ~~and the South Carolina Building Energy Efficiency Standard~~, a permit ~~shall~~ must be issued. ~~A local enforcement agency~~ The building official may suspend or revoke a building permit if the building under construction pursuant ~~thereto~~ to that building permit does not comply with this chapter.

~~(g)~~(E) ~~A local enforcement agency shall~~ The building official periodically shall inspect, or cause to be inspected, all construction undertaken pursuant to permits issued by ~~that agency~~ the building official to assure compliance with this chapter. ~~The applicant for a permit for the building under construction is deemed to have consented to inspection by a local enforcement agency by the act of applying for such permit.~~ If a building is found not to comply with the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard, the ~~local enforcement agency~~ building official shall notify the ~~permittee~~ permit holder in writing to bring the building into compliance with the standard or to secure it from entry or both; if the ~~permittee~~ permit holder fails to comply with the notification, the ~~local enforcement agency~~ building official shall revoke the permit.

~~(h)~~(F) ~~No~~ A building constructed after the effective date of the ~~South Carolina Building~~ Energy ~~Efficiency~~ Standard ~~shall~~ must not be used or occupied until a certificate of occupancy has been issued. ~~Upon submission of an application for a certificate of occupancy to a local enforcement agency, certificate of occupancy shall be issued if the building to which the application pertains has been constructed in accordance with the building permit, the South Carolina Building Energy Efficiency Standard, and other applicable laws and ordinances.~~

Section 6‑10‑60. Each local ~~government~~ jurisdiction may establish a schedule of fees for the functions performed by the ~~local enforcement agency~~ building inspection department in connection with the enforcement of this chapter.

Section 6‑10‑70. (A) ~~The General Assembly intends by the enactment of this section to~~ Local jurisdictions must provide an appeals board and process for the routine granting of variations for residential recreational dwellings not intended for use as permanent residences and for buildings such as log buildings which, if insulation were required on the walls, would change the character of ~~such~~ these buildings. Until the boards are established, appeals must be heard by the South Carolina Building Codes Council. A local jurisdiction must be relieved of the duty to appoint local appeals boards if it is established to the satisfaction of the council that qualified people cannot be found in the jurisdiction or through cooperation with neighboring jurisdictions. Two or more local jurisdictions may establish a building board of appeals to serve their jurisdictions.

~~(a)~~ ~~In areas of the State where building codes have been adopted and boards of Adjustment and Appeals established in accordance with the Standard Building Code, such boards of Adjustment and Appeals may carry out their normal functions concerning variations, appeals and the requirements of the South Carolina Building Energy Efficiency Standard.~~

~~(b)~~ ~~In areas of the State where local governments have not adopted building codes, appeals shall be made to the boards appointed by local governments under Section 6‑10‑50(d).~~

~~(c)~~(B) Where local ~~governments~~ jurisdictions have been relieved of the duty to appoint an appeals board because ~~a sufficient number of~~ qualified people cannot be found in the jurisdiction, appeals may be made to the South Carolina Building ~~Code~~ Codes Council.

~~(d)~~(C) The council ~~shall~~ promptly shall hear and decide appeals brought by ~~any~~ a person or party in an individual capacity, or on behalf of a call of persons or parties, affected by ~~any~~ a regulation or decision pursuant to this ~~act~~ chapter. Final decisions by the council are reviewable on appeal, or on successive appeals, in the courts of competent jurisdiction.

Section 6-10-80. ~~Any local enforcement agency or the Council~~ The building official may obtain injunctive relief from ~~any~~ a court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy, erection, alteration, or installation of ~~any~~ a building covered by this chapter, upon an affidavit from ~~such agency~~ the building official specifying the manner in which the building does not conform to the requirements of this chapter ~~or the South Carolina Building Energy Efficiency Standard~~.

Section 6‑10‑90. ~~(a)~~(A) When a violation of the provisions of this chapter ~~or the South Carolina Building Energy Efficiency Standard~~ is discovered, the person in violation ~~shall~~ must be granted thirty days ~~or no later than the time necessary to complete the construction~~ to correct ~~such~~ the violation. ~~Any~~ A person who fails to correct ~~such~~ a violation ~~shall be deemed~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined not more than two hundred dollars or imprisoned for not more than thirty days for each offense.

~~(b)~~(B) A separate violation is deemed to have occurred with respect to each building not in compliance with ~~the act or the South Carolina Building Energy Efficiency Standard~~ this chapter. Each day the violation continues constitutes a separate violation.”

SECTION 2. Section 6‑9‑50 of the 1976 Code, as last amended by Act 83 of 2003, is further amended to read:

“Section 6‑9‑50. (A) The council 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 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.

(B) The governing body of a county may not enforce that portion of a nationally recognized fire prevention code it has adopted which may regulate outdoor burning for forestry, wildlife, and agricultural purposes as regulated by the South Carolina Forestry Commission.

~~(C)~~ ~~A residential building is considered in compliance with the Building Envelope Requirements of the Energy Code if:~~

~~(1)~~ ~~it is built in compliance with prescriptive standards issued by the South Carolina Residential Builders Commission, in consultation with the State Energy Office, based on computer models of the Energy Code including, but not limited to, options developed by Pacific Northwest National Laboratories, or other nationally recognized laboratories which use the standards developed by Pacific Northwest National Laboratories, for South Carolina’s climatic zones, or~~

~~(2)~~ ~~if double pane or single pane with storm windows are used for window glass and in the case of ceilings, exterior walls, floors with crawl space, and heating and air conditioning duct work, the determination of the minimum thermal resistance ratings (R‑value) is:~~

~~(a)~~ ~~R‑30 for ceilings, except for ceiling/roof combinations, which must be at least R‑19;~~

~~(b)~~ ~~R‑13 for exterior walls;~~

~~(c)~~ ~~R‑19 for floors with crawl space;~~

~~(d)~~ ~~R‑6, or the installed equivalent, for heating and air conditioning duct work not located in conditioned space.~~

~~(D)~~ ~~All referenced codes adopted by the council shall 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, 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. Any 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 3. The provisions of this act do not apply to projects which have received the proper permits as required by law before the effective date of this act.

SECTION 4. This act takes effect July 1, 2009.

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