~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 25, 2011

**H. 3474**

Introduced by Rep. Sandifer

S. Printed 5/25/11--H.

Read the first time January 27, 2011.

**A** **BILL**

TO AMEND SECTION 6‑8‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO SEPARATE THE COUNCIL INTO THE SOUTH CAROLINA COMMERCIAL BUILDING CODES COUNCIL AND THE SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6‑9‑5, AS AMENDED, RELATING TO THE PUBLIC POLICY FOR BUILDING CODES, SO AS TO MAKE SPECIFIC REFERENCE TO BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6‑9‑20, AS AMENDED, RELATING TO AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES, SO AS TO MAKE SPECIFIC REFERENCE TO BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6‑9‑40, AS AMENDED, RELATING TO BUILDING CODE ADOPTION PROCEDURE, SO AS TO CLARIFY THE AUTHORITY OF BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6‑9‑63, RELATING TO THE COMPOSITION AND FUNCTIONS OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO DEFINE THE COMPOSITION OF BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; AND TO AMEND SECTION 6‑9‑105, RELATING TO CODE VARIATIONS BASED ON PHYSICAL OR CLIMATOLOGICAL CONDITIONS, SO AS TO INCLUDE GEOLOGICAL CONDITIONS AS A CONSIDERATION FOR A VARIANCE, AND TO MAKE SPECIFIC REFERENCE TO THE APPROPRIATE COUNCIL FOR THE SUBMISSION OF PROPOSED VARIANCES.

Amend Title To Conform

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

SECTION 1. 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)(1) The council is authorized to review, adopt, modify, and promulgate the building codes referenced in Section 6‑9‑50, ~~provided that~~ in accordance with the following:

~~(1)~~(a) 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)~~(b) The notice must include:

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

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

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

~~(4)~~(d) The committee shall hold at least one public meeting, accept evidence and comments, and make a written recommendation to the council. 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 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.

(2) ~~Any~~ An amended or modified code ~~shall~~ must be codified as provided for in Section ~~1‑23‑90~~ 6‑9‑55. The council shall determine whether the amended or modified code becomes effective on the first day of January or July. However, a code amended or modified pursuant to subsection (A)(1) does not take effect until the council has promulgated the code amendment or modification as a regulation pursuant to Section 6‑9‑55.

(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 effect on a date established by the council.

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

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

(4) An emergency modification of a regulation pursuant to this subsection or the Administrative Procedures Act is not a permanent modification of the regulation until the council has complied with the requirements of subsection (A)(1) and Section 6‑9‑55.

(C) Modifications promulgated pursuant to this section do not require readoption by the council 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.”

SECTION 2. Section 6‑9‑55 of the 1976 Code, as added by Act 232 of 2010, is amended to read:

“Section 6‑9‑55. (A)(1) The council shall promulgate as regulations, in accordance with the procedure and requirements contained in Article 1, Chapter 23, Title 1, the Administrative Procedures Act, any provision of or amendment to any building code that was adopted pursuant to Section 6‑9‑40(A) that would affect construction requirements for one‑family or two‑family dwellings.

(2) If a modification is requested to be made, or is made, to a regulation pursuant to the Administrative Procedures Act, the provisions of the Administrative Procedures Act govern, and the council is not required to also comply with the provisions of Section 6‑9‑40(A)(1).

(3) If an emergency arises pursuant to Section 6‑9‑40(B) requiring a modification of a regulation, the council may proceed under the emergency provisions of the Administrative Procedures Act or Section 6‑9‑40(B), or both; if both, the provisions of both run concurrently and must be construed so as not to create a conflict. However, to permanently modify the regulation, the council shall comply with the provisions of Section 6‑9‑40(A)(1) and promulgate the modification in accordance with this section.

(B) No building code provision that would otherwise become effective after the effective date of this section concerning construction requirements for one‑family or two‑family dwellings shall be enforced until the effective date of the regulations required to be promulgated by this section.

~~(B)~~(C) Notwithstanding ~~subsection (A)~~ the provisions of this section, a regulation mandating the installation of an automatic residential fire sprinkler system in one‑family or two‑family dwellings shall not become effective at any time before January 1, 2014.”

SECTION 3. This act takes effect upon approval by the Governor.

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