**South Carolina General Assembly**

121st Session, 2015-2016

**S. 1164**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander, Leatherman, Setzler and Peeler

Document Path: l:\s-res\tca\056scbc.ls.tca.docx

Introduced in the Senate on March 10, 2016

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

Summary: Building Codes

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/10/2016 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\SJ%20Archive\2016\03-10-16.docx))

3/10/2016 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 4](file:///h:\SJ%20Archive\2016\03-10-16.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=1164&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/10/2016](file:///p:\pprever\2015-16\1164_20160310.docx)

**A** **BILL**

TO AMEND SECTION 6‑9‑5 OF THE 1976 CODE, RELATING TO PUBLIC POLICY FOR BUILDING CODES, TO PROVIDE THAT ALL STATE REGULATORY AGENCIES SHOULD ENFORCE THE SAME CODES UNLESS OTHERWISE MANDATED BY THE FEDERAL GOVERNMENT AND TO PROVIDE THE INTENT OF THE GENERAL ASSEMBLY; TO ADD SECTION 6‑9‑8 TO DEFINE NECESSARY TERMS; TO AMEND SECTION 6‑9‑10, RELATING TO ENFORCEMENT OF BUILDING CODES, TO PROVIDE THAT AGENCIES SHALL ENFORCE BUILDING CODES; TO AMEND SECTION 6‑9‑14, RELATING TO FEES AND PERMITS FOR WHEELCHAIR RAMPS, TO PROVIDE THAT A MUNICIPALITY OR COUNTY MAY NOT CHARGE A PERMIT FEE OR REQUIRE A PERMIT FOR A WHEELCHAIR ACCESS RAMP BUILT WITH MEDICARE OR MEDICAID DOLLARS AS LONG AS THE CONSTRUCTION IS PERFORMED, OVERSEEN, OR INSPECTED BY A SOUTH CAROLINA RECOGNIZED CODE ENFORCEMENT OFFICER; TO AMEND SECTION 6‑9‑40, RELATING TO THE BUILDING CODE ADOPTION PROCEDURE, TO PROVIDE A TIMEFRAME IN WHICH THE COUNCIL IS AUTHORIZED TO REVIEW, ADOPT, MODIFY, AND PROMULGATE BUILDING CODES FOR RESIDENTIAL AND COMMERCIAL STRUCTURES, TO PROVIDE WHAT INFORMATION MUST BE INCLUDED IN A NOTICE OF INTENTION TO ADOPT OR MODIFY BUILDING CODES, AND TO UPDATE THE COMMITTEE RECOMMENDATION AND COUNCIL ADOPTION PROCEDURE; TO AMEND SECTION 6‑9‑50, RELATING TO ADOPTION BY REFERENCE OF NATIONALLY RECOGNIZED CODES AND STANDARDS, TO PROVIDE THAT THE COUNCIL MAY PROMULGATE VARYING CODE REQUIREMENTS FOR DIFFERING USES AND THE COUNCIL MAY USE THE REQUIREMENTS OF A NATIONALLY KNOWN CODE, A NATIONAL MODEL CODE, OR A NATIONALLY RECOGNIZED CODE AS GUIDANCE; TO REPEAL SECTION 6‑9‑55, TO AMEND SECTION 6‑9‑60, RELATING TO ADOPTION BY REFERENCE OF CERTAIN NATIONALLY RECOGNIZED CODES AND STANDARDS, TO PROVIDE THAT MUNICIPALITIES AND COUNTIES MAY ADOPT BY REFERENCE ONLY THE LATEST EDITIONS OF THE CODE APPROVED AND PROMULGATED BY THE COUNCIL; TO AMEND SECTION 6‑9‑63, RELATING TO THE SOUTH CAROLINA BUILDING CODES COUNCIL, TO UPDATE THE PRIMARY FUNCTION OF THE COUNCIL AND TO PROVIDE THAT THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL PROVIDE THE COUNCIL AND TECHNICAL REVIEW COMMITTEES WITH A PRINTED OR AN ELECTRONIC COPY OF THE RELEVANT CODES BEING ENFORCED OR REVIEWED BY THE COUNCIL AND THE COMMITTEE; AND TO AMEND SECTION 6‑9‑105, RELATING TO VARIATIONS BASED ON PHYSICAL OR CLIMATOLOGICAL CONDITIONS, TO PROVIDE THAT PROPOSED VARIATIONS AND MODIFICATIONS BY A MUNICIPALITY OR COUNTY MUST BE SUBMITTED TO AND APPROVED BY THE COUNCIL.

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

SECTION 1. Section 6‑9‑5 of the 1976 Code is amended to read:

“Section 6‑9‑5. (A) The public policy of South Carolina is to maintain reasonable and consistent standards of construction in buildings and other structures in the State ~~consistent with~~ in order to protect the public health, safety, and welfare of its citizens. All state regulatory agencies should enforce the same codes and standards for the construction, manufacture, renovation, improvement, and maintenance of structures. To affect the policy, it is intended that all state regulatory agencies enforce the South Carolina Building Codes unless otherwise mandated by the federal government. To secure these purposes, a person performing building codes enforcement must be certified by the South Carolina Building Codes Council, and this act is necessary to provide for certification.

(B) To clarify the intent of the General Assembly and address questions which might arise or have arisen with respect to provisions of the ~~nationally known~~ building codes which have been or are in place, ~~only those portions or provisions of the nationally known building and safety codes which relate to building standards and safety are~~ South Carolina Building Codes are the only codes binding upon a state or local governmental entity or agency which adopts the building and safety codes authorized or required by this chapter.”

SECTION 2. Chapter 9, Title 6 of the 1976 Code is amended by adding:

“Section 6‑9‑8. For the purposes of this chapter:

(1) ‘Agency’ or ‘state agency’ means each state board, commission, department, executive department, or office, other than the South Carolina Building Codes Council, General Assembly or the courts, charged with the regulations of buildings or other structures by enforcing a nationally recognized code. An agency is charged with the regulation of buildings or other structures by enforcing a nationally recognized code if the code is referenced in the statutes or regulations administered by that agency.

(2) ‘Building code’ or ‘South Carolina Building Code’ means building, electrical, plumbing, mechanical, gas or fire codes promulgated by the South Carolina Building Code Council.

(3) ‘Council’ means the South Carolina Building Codes Council.

(4) ‘Committee’ means the residential technical review committee or the commercial technical review committee having jurisdiction over the issue.

All technical review committees shall be composed entirely of individuals with current appropriate South Carolina state licenses, registrations and certifications for their position within the committee. Each of these individuals shall have served cumulatively as a design professional, contractor, code enforcement officer or fire marshal for a minimum of ten years and be a resident of South Carolina. Members of the technical review committees shall be appointed by the head of the department upon recommendation by the Senate Labor, Commerce and Industry Committee.

(5) ‘Residential technical review committee’ means the body having authority over building codes affecting non‑commercial one or two family homes.

(6) ‘Commercial technical review committee’ means the body having authority over building codes affecting commercial or institutional buildings.

(7) ‘Department’ means the South Carolina Department of Labor, Licensing and Regulation.”

SECTION 3. Section 6‑9‑10(A) of the 1976 Code is amended to read:

“Section 6‑9‑10. (A) All agencies and municipalities, as defined by Section 5‑1‑20, and counties in this State shall enforce building, ~~energy,~~ electrical, plumbing, mechanical, gas, and fire codes, referred to as building codes in this chapter, relating to the construction, livability, sanitation, erection, ~~energy efficiency,~~ installation of equipment, alteration, repair, occupancy, classification, or removal of structures located within their jurisdictions and promulgate regulations to implement their enforcement. The ~~municipality or county~~ enforcing authority shall enforce only the ~~national~~ building and safety codes ~~provided in~~ as promulgated in accordance with this chapter.”

SECTION 4. Section 6‑9‑14 of the 1976 Code is amended to read:

“Section 6‑9‑14. A municipality or county may not charge a permit fee or require a permit for a wheelchair access ramp built with Medicare or Medicaid dollars as long as the construction is performed, overseen, or inspected by ~~an Americans with Disabilities Act inspector~~ a South Carolina recognized code enforcement officer.”

SECTION 5. Section 6‑9‑40 of the 1976 Code is amended to read:

“Section 6‑9‑40. (A) The council is authorized to review, adopt, modify, and promulgate the residential building codes referenced in Section 6‑9‑50, no later than six years from the date of implementation of the previously adopted South Carolina Building Code, and the commercial building codes referenced in Section 6‑9‑50, no later than three years from the date of implementation of the previously adopted South Carolina Building Code, 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) instructions for filing an intention to appear before or provide evidence or comments concerning the code to the technical review committee; and

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

~~(3)~~ ~~comments must be assigned to a study committee appointed by the council which shall publish Notice of General Interest in the same manner as provided in item (1) 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)~~(3) the committee shall hold at least one public meeting, accept evidence and comments, and make a written recommendation to the council recommending the adoption of a new code or modification of an existing code within one hundred eighty days. Within ~~one hundred eighty days from the end of the comment period,~~ sixty days from the date of the committee’s report, the council shall adopt~~,~~ or modify~~, or deny~~ the recommendations from the committee. The council may modify or amend the ~~code~~ committee’s report with at least a two‑thirds majority vote after a finding on the record that the modifications provide a reasonable degree of public health~~,~~ and safety~~, and welfare~~. The council must provide a preliminary fiscal impact statement reflecting estimates of costs to be incurred by the public and state agencies in complying with the proposed modifications or amendments.

(4) A request for a modification of a provision of the South Carolina Building Code after the committee’s recommendations may be made to the council if requested by twenty‑five persons, by a governmental subdivision or agency, or by an association having not less than twenty‑five members.

(5) The council shall promulgate building code adoptions and modifications as regulations, in accordance with the procedure and requirements contained in Article 1, Chapter 23 of Title 1.

(B) 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, whichever allows a period of six months for training and education.

~~(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.~~

(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 be reconsidered each time a new edition of the building code is considered for adoption by the council.

(D) The council may issue a temporary building code modification as provided for in Section 1‑23‑130 if an existing building code requirement constitutes a new threat to the life or safety of a building occupant, or an existing building code requirement is shown to be impractical or detrimental to the economic welfare of South Carolina homeowners and potential homebuyers.

(1) A written request, along with supporting evidence, for a temporary building code modification may be made to the council. The council will then submit the written request to the committee. The committee shall have an open public hearing within ten days of receiving the request to make a recommendation.

(2) Should the committee find grounds for a temporary code modification, the committee shall forward its recommendation to the Council. The Council shall then schedule an open meeting within seven days to act on the committee’s recommendation.”

SECTION 6. Section 6‑9‑50(A) of the 1976 Code is 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.~~ The council may promulgate varying code requirements for differing uses including, but not limited to, construction requirements for one‑family or two‑family dwellings. All regulations contained in the South Carolina Building Code shall have a reasonable and substantial connection with the public health, safety, or general welfare, and their provisions shall be construed reasonably to those ends. Requirements of the code shall conform to good engineering practice. The council may use as guidance, but is not required to adopt, the requirements of a nationally known code, a national model code, or a nationally recognized code and similar state or national agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety.”

SECTION 7. Section 6‑9‑55 of the 1976 Code is repealed.

SECTION 8. Section 6‑9‑60 of the 1976 Code is amended to read:

“Section 6‑9‑60. Municipalities and counties may adopt by reference only the latest edition~~s of the following nationally recognized codes and the standards referenced in those codes~~ of the code approved and promulgated by the council for regulation of construction within their respective jurisdictions: property maintenance, performance codes for buildings and facilities, existing building, and swimming pool codes as promulgated, published, or made available by the International Code Council, Inc. The appendices of the codes provided in this section may be adopted as needed by a municipality or county, but the specific appendix or appendices must be referenced by name or letter designation in the adopting ordinance. However, the provisions of the codes referenced in this section which concern the qualification, removal, dismissal, duties, responsibilities of, and the 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.”

SECTION 9A. Section 6‑9‑63(C) of the 1976 Code is amended to read:

“Section 6‑9‑63. (C) The primary function of the council 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, affordability, and welfare.”

B. Section 6‑9‑63 of the 1976 Code is amended by adding a new subsection at the end to read:

“(F) The department shall provide the council and the technical review committees with a printed or an electronic copy of the relevant codes being enforced or reviewed by the council and the committee.”

SECTION 10. Section 6‑9‑105(A) of the 1976 Code 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~~ and approved by the council in accordance with Section 6‑9‑40.”

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

‑‑‑‑XX‑‑‑‑