

No. 2011-1

AN ACT

HB 377

Amending the act of November 10, 1999 (P.L.491, No.45), entitled "An act establishing a uniform construction code; imposing powers and duties on municipalities and the Department of Labor and Industry; providing for enforcement; imposing penalties; and making repeals," further providing for Uniform Construction Code Review and Advisory Council, for revised or successor codes and for exemptions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 107(b)(3), (c)(2), (h) and (j) of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, added October 9, 2008 (P.L.1386, No.106), are amended and the section is amended by adding a subsection to read:

Section 107. Uniform Construction Code Review and Advisory Council.

* * *

(b) Duties.—The council shall do the following:

* * *

(3) With the exception of the provisions of Chapter 11 and Appendix E of the International Building Code of [2006] 2009, or its successor codes, or any other accessibility requirements contained in or referenced by the Uniform Construction Code relating to persons with physical disabilities, review **[new and amended provisions contained in triennial revisions of the codes issued by the International Code Council to any of its codes. The council shall inform the department of any code provisions that should be excluded from the Uniform Construction Code by May 1 of the year of issuance of the latest triennial code issued by the International Code Council.]** *the latest triennial code revisions issued by the International Code Council, beginning with the 2012 codes, as provided under subsection (b.1).*

(b.1) Code review process.—

(1) Beginning with the 2012 ICC codes, the council shall review the latest triennial code revisions upon official publication of the codes.

(2) During the review process, the council shall hold at least three public hearings. One of the public hearings shall be held in Harrisburg, one shall be held in the eastern region of this Commonwealth and one shall be held in the western region of this Commonwealth.

(3) The council shall submit a report to the secretary within the 12-month period following official publication of the latest triennial code revisions under paragraph (1) with provisions of the codes that are specified for adoption. The provisions of the codes that are specified for adoption shall be separately designated in the report.

(4) The council shall examine triennial code revisions applying all of the following criteria:

(i) *The impact that the provision may have upon the health, safety and welfare of the public.*

(ii) *The economic and financial impact of the provision.*

(iii) *The technical feasibility of the provision.*

(5) *Only triennial code revisions that are adopted by a two-thirds vote of council membership shall be included in the report required under paragraph (3).*

(c) Composition.—The council shall consist of the following members appointed by the Governor:

* * *

(2) A *general* contractor from an association representing the nonresidential construction industry who has recognized ability and experience in the construction of nonresidential buildings.

* * *

(h) Quorum [and consensus].—Ten members shall constitute a quorum[, and a consensus among at least ten members must be reached before any determination can be made by the council].

* * *

(j) Administrative support.—The [secretary] *department* shall provide a facility for council meetings under this act, stenographic services and required notice of the council's meetings. *The department may provide staff support in drafting any reports required under this act.*

* * *

Section 2. Section 304 of the act, amended October 9, 2008 (P.L.1386, No.106), is amended to read:

Section 304. Revised or successor codes.

[(a) **Building code.**—

(1) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of the issuance of a new triennial ICC International Building Code, or its successor building code, the department shall promulgate regulations adopting the new code as the Uniform Construction Code unless the council informs the department that it should exclude any provisions of the triennial code from the Uniform Construction Code. If the council provides this notification, the department shall submit regulations adopting the triennial code with provisions omitted by the council under this section within 90 days following council notification.

(2) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of issuance of a new triennial ICC International Residential Code, or its successor building code, the department shall promulgate regulations providing that all detached one-family and two-family dwellings and one-family townhouses that are not more than three stories in height and their accessory structures may be designed in accordance with that code or the Uniform Construction Code at the option of the building permit applicant. The department shall promulgate regulations adopting the new code as the Uniform Construction Code unless the council informs the department that it should exclude any provisions of the triennial code from the Uniform Construction Code. If the council

provides this notification, the department shall submit regulations adopting the triennial code with provisions omitted by the council under this section within 90 days following council notification.]

(a) Duties of department.—

(1) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, within three months of the receipt of the report under section 107(b.1), the department shall promulgate final-omitted regulations under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, to adopt the triennial code revisions made in the report without change.

(2) Regulations promulgated under this subsection are exempt from:

(i) section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law; and

(ii) sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(3) Notwithstanding paragraphs (1) and (2), the department shall promulgate regulations updating accessibility standards under Chapter 3 by adopting Chapter 11 and Appendix E of the International Building Code of 2012, or its successor, by December 31 of the year of issuance of the new code.

(a.1) Continuity.—If a triennial revision is not adopted under section 107(b.1)(5), the relevant provisions of the prior version of the codes shall remain in effect.

[(b) International Fuel Gas Code.—By December 31 of the year of the issuance of a new International Fuel Gas Code, or its successor code, the department shall promulgate regulations adopting the new code.]

(c) Prior permits and construction.—

(1) A construction permit issued under valid construction regulations prior to the effective date of regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act shall remain valid, and the construction of any building or structure may be completed pursuant to and in accordance with the permit.

(2) If the permit has not been actively prosecuted within two years of the effective date of the regulation or the period specified by a municipal ordinance, whichever is less, the former permit holder shall be required to acquire a new permit.

(3) Where construction of a building or structure commenced before the effective date of the regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act and a permit was not required at that time, construction may be completed without a permit.

[(d) Code revisions.—

(1) The council may determine that any new or amended provision contained in a triennial revision by the ICC to any of the codes which have been adopted by regulation of the department as part of the Uniform Construction Code is not, in the opinion of the council, consistent with the intent and purpose of this act or is otherwise inappropriate for inclusion in the Uniform Construction

Code. In making a determination on the new or amended triennial revisions, the council may consider the provisions of section 102, as well as other relevant factors, including, but not limited to:

(i) The impact that the provisions may have upon the health, safety and welfare of the public.

(ii) The economic reasonableness and financial impact of the provisions.

(iii) The technical feasibility of the provisions.

(2) When adopting the latest triennial versions of the ICC codes, the department shall exclude a specific new or amended code provision rejected by the council under paragraph (1) and shall provide that the relevant provisions of the prior versions of the code shall remain in effect.]

Section 3. Section 901(a) of the act, amended July 7, 2006 (P.L.1052, No.108), is amended and the section is amended by adding subsections to read:

Section 901. Exemptions.

(a) Manufactured housing.—This act shall not apply to manufactured housing which bears a label, as required by and referred to in the act of November 17, 1982 (P.L.676, No.192), known as the Manufactured Housing Construction and Safety Standards Authorization Act, which certifies that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633), nor shall it apply to industrialized housing, as defined in the act of May 11, 1972 (P.L.286, No.70), known as the Industrialized Housing Act, *with the exception that any model code enacted pursuant to the Industrialized Housing Act shall not include code provisions specifically omitted from adoption pursuant to this act.*

* * *

(f) *Log walls.—Log walls with a minimum average wall thickness of five inches or greater which comply with the International Code Council, Standard on the Design and Construction of Log Structures, ICC 400-2007, or other successor standard which the department may specify by regulation, shall be permitted in residential buildings if:*

(1) *the area weighted average U-factor for fenestration products in the log walls is a maximum of 0.31; and*

(2) *(i) the building heating equipment meets or exceeds the following Department of Energy ratings:*

(A) *Gas furnace - 90 annual fuel utilization efficiency (AFUE).*

(B) *Oil furnace - 85 annual fuel utilization efficiency (AFUE).*

(C) *Boilers - 85 annual fuel utilization efficiency (AFUE).*

(D) *Air source heat pumps - 8.2 heating seasonal performance factor (HSPF) split systems.*

(E) *For water-to-air geothermal heat pumps:*

(I) *Closed loop water-to-air, an energy efficiency rating of 14.1 and coefficient of performance of 3.3.*

(II) *Open loop water-to-air, an energy efficiency rating of 16.2 and coefficient of performance of 3.6.*

(F) *For water-to-water geothermal heat pumps:*

(I) *Closed loop water-to-water, an energy efficiency rating of 15.1 and coefficient of performance of 3.0.*

(II) *Open loop water-to-water, an energy efficiency rating of 19.1 and coefficient of performance of 3.4.*

(G) *For direct geothermal exchange, an energy efficiency rating of 15.0 and coefficient of performance of 3.5; or*

(ii) *the building heating equipment is qualified under the Energy Star program jointly operated by the Department of Energy and the Environmental Protection Agency as provided for in 10 CFR Pt. 430 (relating to energy conservation program for consumer products); and*

(iii) *all energy efficiency requirements of this act applicable to components other than log walls are met.*

(g) *Automatic fire sprinkler systems in one-family and two-family dwellings.—*

(1) *Section R313.2 (relating to one- and two-family dwellings automatic fire sprinkler systems) of the International Residential Code (2009 edition), and any successor triennial revisions, is excluded from this act and shall not be part of Chapter 3.*

(2) *A builder of a one-family or two-family dwelling subject to the International Residential Code shall, at or before the time of entering into the purchase contract, do all of the following:*

(i) *Offer to a buyer the option to install or equip, at the buyer's expense, an automatic fire sprinkler system in the building or dwelling unit designed and installed in accordance with the provisions of section R313.2.1 (relating to design and installation) of the International Residential Code (2009 edition).*

(ii) *Provide the buyer with information which explains the initial and ongoing cost of installing and equipping an automatic fire sprinkler system in the building or dwelling unit.*

(iii) *Provide the buyer with information, as made available by the State Fire Commissioner on the agency's Internet website, on the possible benefits of installing an automatic sprinkler system.*

(h) *Fire protection of floors.—*

(1) *Except as set forth in paragraph (2), a floor assembly not required in the International Residential Code, or its successor building code, to be fire-resistance rated shall be provided with a 1/2-inch gypsum wallboard membrane, 5/8-inch wood structural panel membrane, or equivalent, on the underside of the floor framing member.*

(2) *Paragraph (1) shall not apply to any of the following:*

(i) *A floor assembly located directly over a space protected by an automatic sprinkler system in accordance with section P2904, NFPA13D or other equivalent sprinkler system approved by a municipal code official.*

(ii) A floor assembly located directly over a crawl space not intended for storage or fuel-fired appliances.

(iii) A portion of a floor assembly which complies with all of the following:

(A) The aggregate area of the unprotected portions shall not exceed 80 square feet per story.

(B) Fire blocking in accordance with section R302.11.1 shall be installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.

(iv) A wood floor assembly using dimension lumber or structural composite lumber equal to or greater than two-inch by ten-inch nominal dimension or a floor assembly approved by a municipal code official demonstrating equivalent fire performance.

(i) Wall bracing requirements.—Sections R602.10 through R602.12.1.6 of the 2009 International Residential Code, or its successor provisions, are excluded from the Uniform Construction Code. The wall bracing requirements of sections R602.10 through R602.11.3 of the 2006 International Residential Code shall be part of the Uniform Construction Code.

Section 4. Retroactivity is as follows:

(1) The addition of section 901(f) of the act shall apply retroactively to January 1, 2010.

(2) The addition of section 901(g) of the act shall apply retroactively to January 1, 2011.

Section 5. This act shall take effect as follows:

(1) The amendment of section 107(c)(2) of the act shall take effect July 1, 2012.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 25th day of April, A.D. 2011

TOM CORBETT