

LEGISLATIVE BILL 405

Approved by the Governor May 08, 2019

Introduced by Hunt, 8.

A BILL FOR AN ACT relating to buildings; to amend sections 71-6403, 71-6406, 72-804, 72-805, 72-806, 81-1608, 81-1609, 81-1611, 81-1614, 81-1618, and 81-1622, Reissue Revised Statutes of Nebraska; to change provisions relating to building and energy codes; to adopt updates to building and energy codes; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-6403, Reissue Revised Statutes of Nebraska, is amended to read:

71-6403 (1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The International Building Code (IBC), chapter 13 of the ~~2018~~ 2009 edition, and all but such chapter of the 2012 edition, published by the International Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.5.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), chapter 11 of the ~~2018~~ 2009 edition, and all but such chapter of the 2012 edition except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2012 edition, published by the International Code Council.

(2) The codes adopted by reference in subsection (1) of this section shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

Sec. 2. Section 71-6406, Reissue Revised Statutes of Nebraska, is amended to read:

71-6406 (1) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(a) Adopts the state building code; or

(b) Adopts a building or construction code that conforms generally with the state building code.

(2) A building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts section 305 of the 2012 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section 71-6403, ~~chapter 13 of the 2012 edition of the International Building Code, chapter 11 of the 2012 edition of the International Residential Code,~~ or section R313 of the 2012 edition of the International Residential Code;

(d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172; or

(e) Adopts a local energy code lighting and thermal efficiency ordinance, resolution, code, or standard as authorized under section 81-1618.

(3) A local building or construction code which includes a prior edition of any component or combination of components of the state building code shall not be deemed to conform generally with the state building code.

(4) A county, city, or village shall notify the State Energy Office if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the International Building Code or (b) chapter 11 of the 2018 edition of the International Residential Code. The notification shall be made within thirty days after the adoption of such amendment or modification.

~~(5)~~ (4) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.

~~(6)~~ (5) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.

~~(7)~~ (6) A county, city, or village may adopt amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members,

examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code.

(8) (7) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(9) (8) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

Sec. 3. Section 72-804, Reissue Revised Statutes of Nebraska, is amended to read:

72-804 (1) Any new state building shall meet or exceed the requirements of the 2018 2009 International Energy Conservation Code published by the International Code Council.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2018 2009 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the State Energy Office, may specify:

(a) A more recent edition of the International Energy Conservation Code;

(b) Additional energy efficiency or renewable energy requirements for buildings; and

(c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

Sec. 4. Section 72-805, Reissue Revised Statutes of Nebraska, is amended to read:

72-805 The 2018 2009 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after the operative date of this act August 27, 2011. The State Energy Office shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section. The State Energy Office shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the State Energy Office. The State Energy Office shall, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Sec. 5. Section 72-806, Reissue Revised Statutes of Nebraska, is amended to read:

72-806 The enforcement provisions of Chapter 1 of the 2018 2009 International Energy Conservation Code, published by the International Code Council, shall not apply to buildings subject to section 72-804.

Sec. 6. Section 81-1608, Reissue Revised Statutes of Nebraska, is amended to read:

81-1608 The Legislature finds that consumers have an expectation that newly built houses or buildings they buy meet uniform energy efficiency standards. Therefore, the Legislature finds that there is a need to adopt the 2018 2009 International Energy Conservation Code, published by the International Code Council, in order (1) to ensure that a minimum energy efficiency standard is maintained throughout the state, (2) to harmonize and clarify energy building code statutory references, (3) to ensure compliance with the federal National Energy Policy Act of 1992, (4) to increase energy savings for all Nebraska consumers, especially low-income Nebraskans, (5) to reduce the cost of state programs that provide assistance to low-income Nebraskans, (6) to reduce the amount of money expended to import energy, (7) to reduce the growth of energy consumption, (8) to lessen the need for new power plants, and (9) to provide training for local code officials and residential and commercial builders who implement the 2018 2009 International Energy Conservation Code.

Sec. 7. Section 81-1609, Reissue Revised Statutes of Nebraska, is amended to read:

81-1609 As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

(1) Office means the State Energy Office;

(2) Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;

(3) Architect or engineer means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;

(4) Building means any new structure, renovated building, or addition which is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-

tenths British Thermal Units per hour or one watt per square foot;

(5) Residential building means a building three stories or less that is used primarily as one or more dwelling units;

(6) Renovation means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;

(7) Addition means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;

(8) Floor area means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;

(9) Nebraska Energy Code means the 2018 2009 International Energy Conservation Code published by the International Code Council;

(10) Traditional energy sources means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and

(11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

Sec. 8. Section 81-1611, Reissue Revised Statutes of Nebraska, is amended to read:

81-1611 The Legislature hereby adopts the 2018 2009 International Energy Conservation Code published by the International Code Council as the Nebraska Energy Code. The State Energy Office may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that shall be deemed equivalent to the Nebraska Energy Code. Regulations specifying alternative standards may be deemed equivalent to the Nebraska Energy Code and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code.

Sec. 9. Section 81-1614, Reissue Revised Statutes of Nebraska, is amended to read:

81-1614 The Nebraska Energy Code shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after the operative date of this act August 27, 2011.

Sec. 10. Section 81-1618, Reissue Revised Statutes of Nebraska, is amended to read:

81-1618 Any county, city, or village may adopt and enforce a local energy code lighting and thermal efficiency ordinance, resolution, code, or standard. Such local energy code ordinance, resolution, code, or standard shall be deemed equivalent to the Nebraska Energy Code if it does not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code and is reasonably consistent with the intent of sections 81-1608 to 81-1626. Any building or portion thereof subject to the jurisdiction of and inspected by such county, city, or village shall be deemed to comply with sections 81-1608 to 81-1626 if it meets the standards of such local energy code ordinance, resolution, code, or standards. Such county, city, or village may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred pursuant to sections 81-1608 to 81-1626.

Any county, city, or village which adopts and enforces a local energy code lighting and thermal efficiency ordinance, resolution, code, or standard may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The local code authority shall submit to the State Energy Office its analysis for determining that a specific requirement is not justified. The State Energy Office shall review such analysis and transmit its findings and conclusions to the local code authority within a reasonable time. The local code authority shall submit to the State Energy Office its explanation as to how the original code or any revised code addresses the issues raised by the State Energy Office. After a local code authority has submitted such explanation, the authority may proceed to enforce its local energy code ordinance, resolution, code, or standard.

Sec. 11. Section 81-1622, Reissue Revised Statutes of Nebraska, is amended to read:

81-1622 Prior to the construction, renovation, or addition to any existing building after the dates specified in section 81-1614 the following requirements shall be met where a county, city, or village has not adopted a local energy code an ordinance, resolution, code, or standard pursuant to section 81-1618:

(1) When no architect or engineer is retained, the prime contractor shall build or cause to be built, to the best of his or her knowledge, according to the Nebraska Energy Code; and

(2) When an architect or engineer is retained: (a) The architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the Nebraska Energy Code and (b) the prime contractor responsible for the actual construction shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

Sec. 12. This act becomes operative on July 1, 2020.

Sec. 13. Original sections 71-6403, 71-6406, 72-804, 72-805, 72-806, 81-1608, 81-1609, 81-1611, 81-1614, 81-1618, and 81-1622, Reissue Revised Statutes of Nebraska, are repealed.