

First Extraordinary Session, 2005

HOUSE BILL NO. 76

BY REPRESENTATIVES PINAC, ALARIO, DAMICO, DEWITT, DORSEY,
HAMMETT, JOHNS, AND SALTER AND SENATORS HEITMEIER, HINES,
AND MOUNT

BUILDING CODES: Provides for changes to the State Uniform Construction Code

1 AN ACT

2 To amend and reenact R.S. 33:4773(D) and to enact Part IV-B of Chapter 8 of Title 40 of
3 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1730.21 through
4 1730.39, and to repeal Part IV-A of Chapter 8 of Title 40 of the Louisiana Revised
5 Statues of 1950, comprised of R.S. 40:1725 through 1730.1, relative to the state
6 building codes; to provide for scope of building codes; to provide for public policy;
7 to provide for the creation and authority of the Louisiana State Uniform Construction
8 Code Council; to provide for enforcement; to provide for agreements with other
9 governmental entities or certified third-party providers; to provide for appointment
10 of building officials; to provide for council's code adoption authority; to provide for
11 adoption of emergency wind and flood provisions; to provide for adoption of state
12 uniform construction code; to provide for construction of industrial facilities; to
13 provide for construction of farm or recreational structures; to provide for mandamus
14 and injunctive relief; to provide for applicable codes for inspections; to provide for
15 application and issuance of certificates of registration; to provide for revocation
16 authority and injunctive relief; to provide for continuing education; to provide for
17 authority of state fire marshal; to repeal the current state uniform construction code;
18 and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 33:4773(D) is hereby amended and reenacted to read as follows:

3 §4773. Scope of building codes

4 * * *

5 D. ~~The performance of any enforcement procedure in connection with any~~
6 ~~building code shall be deemed to be a discretionary act and shall be subject to the~~
7 ~~provisions of R.S. 9:2798.1.~~ In connection with the construction of any building,
8 structure, or other improvement to immovable property, neither the performance of
9 any enforcement procedure nor any provision of a building code shall constitute or
10 be construed as a warranty or guarantee by an enforcement agency as to durability
11 or fitness, or as a warranty or guarantee by an enforcement agency that said building,
12 structure, or other improvement to immovable property or any material, equipment,
13 or method or type of construction used therein is or will be free from defects, will
14 perform in a particular manner, is fit for a particular purpose, or will last in any
15 particular way.

16 * * *

17 Section 2. Part IV-B of Chapter 8 of Title 40 of the Louisiana Revised Statutes of
18 1950, comprised of R.S. 40:1730.21 through 1730.39, is hereby enacted to read as follows:

19 PART IV-B. STATE UNIFORM CONSTRUCTION CODE

20 §1730.21. Public policy for state uniform construction code

21 A. The public policy of Louisiana is to maintain reasonable standards of
22 construction in buildings and other structures in the state consistent with the public
23 health, safety, and welfare of its citizens.

24 B. This Part is enacted to enable the state of Louisiana to promulgate a state
25 uniform construction code to govern the construction, reconstruction, alteration, and
26 repair of buildings and other structures and the installation of mechanical devices
27 and equipment therein. The state uniform construction code shall establish uniform
28 performance standards providing reasonable safeguards for health, safety, welfare,
29 comfort, and security balanced with affordability for the residents of this state who

1 are occupants and users of buildings, and will provide for the use of modern
2 methods, devices, materials, and techniques. The state uniform construction code
3 will encourage the use of construction materials of the greatest durability, lower
4 long-term costs, and provide greater storm resistance.

5 C. To clarify the intent of the legislature and address questions which might
6 arise or have arisen with respect to provisions of the nationally known codes which
7 have been or are in place, only those portions or provisions of the nationally known
8 building and safety codes which relate to building standards and safety are binding
9 upon a state or local governmental entity or agency which adopts the building and
10 safety codes authorized or required by this Part.

11 D. To further clarify the intent of the legislature, this Part continues to apply
12 to a person who may act under authority of the Department of Public Safety and
13 Corrections and that the allocation of inspection duties among local officials is not
14 dictated by this Part but remains a matter for the local authority.

15 E. To secure these purposes, the Louisiana State Uniform Construction Code
16 Council shall certify a person performing building codes enforcement including
17 building officials, plans reviewers, and inspectors.

18 §1730.22. Louisiana State Uniform Construction Code Council; membership;
19 function of council; meeting requirements; immunity

20 A. The Louisiana State Uniform Construction Code Council, hereinafter
21 referred to as the "council", is hereby created and shall consist of nineteen members.
22 Each member of the council shall be appointed by the governor, subject to Senate
23 confirmation, for a term of three years and until a successor is appointed and
24 qualifies. No member of the council shall receive per diem or other compensation
25 for their duties on the commission.

26 B. A vacancy must be filled in the manner of the original appointment for
27 the unexpired portion of the term.

28 C. The primary function of the council is to review and adopt the state
29 uniform construction code, provide for training and education of code officials, and

1 accept all requests for amendments of the code, except the Louisiana State Plumbing
2 Code [Part XIV (Plumbing) of the State Sanitary Code]. Specifically, the council
3 shall establish the requirements and process for the certification and continuing
4 education of code enforcement officers, code enforcement inspectors, and building
5 officials and determine if any amendments to the state uniform construction code are
6 justified. If the council determines that an amendment is justified, it may enact such
7 an amendment after a finding on the record that the modification provides a
8 reasonable degree of public health, safety, and welfare. The council shall adopt rules
9 in accordance with the Administrative Procedure Act in order to implement the
10 provisions of this Part.

11 D. The council shall elect from its members a chairman and vice chairman.
12 The council shall adopt regulations under the Administrative Procedure Act in order
13 to implement the provisions of this Part. A meeting may be called by the chairman
14 on his own initiative and must be called by him at the request of three or more
15 members of the council within fourteen days of such request. Each member must be
16 notified by the chairman in writing of the time and place of the meeting at least
17 seven days before the meeting. Each meeting shall be open to the public and any
18 official decision of the council may be made only by a vote of at least two-thirds of
19 those members in attendance at the meeting provided that a quorum is established
20 prior to a vote. A majority of members of the council shall constitute a quorum.

21 E. The council and its members shall be immune from personal liability for
22 actions taken in good faith in the discharge of their responsibilities. The state shall
23 hold the council and its members harmless from all costs, damages, and attorney fees
24 arising from claims and suits against them with respect to matters to which such
25 immunity applies.

26 §1730.23. Enforcement of building codes by municipalities and parishes

27 A. Notwithstanding any other law to the contrary, all municipalities and
28 parishes in this state shall enforce the codes provided for in this Part.

1 B. Nothing in this Part shall conflict with the Federal Department of Housing
2 and Urban Development's regulations regarding manufactured housing construction
3 or the provisions of R.S. 51:912.21 et seq., as it relates to manufactured housing
4 installation.

5 C. The provisions of this Part do not limit the authority of parishes or
6 municipalities to enact and enforce stricter building codes as long as they do not
7 diminish the requirements established in this Part.

8 D. In connection with the construction of any building, structure, or other
9 improvement to immovable property, neither the performance of any enforcement
10 procedure nor any provision of a building code shall constitute or be construed as a
11 warranty or guarantee by a governmental enforcement agency as to durability or
12 fitness, or as a warranty or guarantee by a governmental enforcement official that
13 said building, structure, or other improvement to immovable property or any
14 materials, equipment, or method or type of construction used therein is or will be
15 free from defects, will perform in a particular manner, is fit for a particular purpose,
16 or will last in any particular way.

17 §1730.24. Agreements with other governmental entities for provision of services;
18 private agreements

19 A. Municipalities and parishes may establish agreements with other
20 governmental entities of the state or certified third-party providers to issue permits
21 and enforce the state uniform construction code in order to provide the services
22 required by this Part. The council may assist in arranging for municipalities,
23 parishes, or certified third-party providers to provide the services required by this
24 Part to other municipalities or parishes if a written request from the governing body
25 of the municipality or parish is submitted to the council.

26 B. Commercial and residential contractors may establish agreements with
27 certified third-party providers to conduct plans review and inspections and to enforce
28 the state uniform construction code. A third-party provider shall be certified by the
29 International Code Council for purposes of the emergency provisions of R.S.

1 40:1730.27. Thereafter, a third-party provider shall meet the requirements imposed
2 by the council for certificates of registration. During the time period that the
3 provisions of R.S. 40:1730.27 of this Part are in effect, every certified third-party
4 provider doing business within the state shall notify the Department of Public Safety
5 and Corrections of their intention to do business within the state and the department
6 shall maintain a listing of the name of the provider and the name and location of the
7 person or entity with whom the provider has contracted to provide enforcement
8 services. Once the council meets for the first time, certified third-party providers
9 shall notify the council of their intention to do business within the state and the
10 council shall maintain a listing of all certified third-party providers.

11 §1730.25. Appointment of building official or contractual arrangement for such
12 services; affidavit for exemption

13 Each parish and municipality shall appoint a council-certified building
14 official or contract with other governmental entities or third parties as authorized in
15 R.S. 40:1730.24 of this Part so that the unincorporated area of the parish is under the
16 jurisdiction of a council-certified building official. A parish or municipality may use
17 a certified building inspector in lieu of a certified building official for a period not
18 to exceed four years from the date the state uniform construction code becomes
19 effective in the parish or municipality. Nothing in this Part shall prevent a
20 municipality or parish from appointing and employing other council-certified
21 personnel and assistants necessary to perform the required inspections and technical
22 duties and prescribing fees for construction permits and inspections as provided by
23 law.

24 §1730.26. Adoption and promulgation of certain building codes and standards as
25 state uniform construction code; procedures

26 The council shall review, adopt, modify, and promulgate the building codes
27 referenced in R.S. 40:1730.28 of this Part, provided that:

28 (1) The council shall promulgate rules and regulations to modify portions of
29 the state uniform construction code referenced in R.S. 40:1730.28 of this Part under

1 the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The House
2 and Senate Committees on Commerce shall receive notice of intent to modify
3 portions of the state uniform construction code and shall have oversight of any such
4 modifications under the provisions of the Administrative Procedure Act.

5 (2) The state uniform construction code shall be updated every three years.
6 §1730.27. Adoption and enforcement of emergency wind and flood mitigation
7 requirements

8 A. The wind and flood mitigation requirements prescribed by the 2003
9 International Building Code and the 2003 International Residential Code, as
10 modified in R.S. 40:1730.28(A)(3), and amending Section 301.2.1.1(2) to replace
11 "Southern Building Code Congress International Standard for Hurricane Resistant
12 Residential Construction (SSTD 10)" with the Guidelines for Hurricane Resistant
13 Construction as published by the Institute for Business and Home Safety, 2005 shall
14 apply to the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany,
15 Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

16 B. Emergency wind and flood building requirements adopted in this Section
17 shall remain in force until the council adopts the latest editions of both the
18 International Building Code and the International Residential Code, as modified by
19 this Part, as minimum mandatory statewide codes.

20 C. Except as otherwise provided herein, the emergency wind and flood
21 mitigation requirements adopted by this Section shall be enforced pursuant to R.S.
22 40:1730.23 and 1730.24 of this Part. If municipalities and parishes are unable to
23 enforce the emergency wind and flood mitigation requirements prescribed in this
24 Section on the effective dates provided for in Subsection D of this Section, the
25 Louisiana Department of Public Safety and Corrections shall enforce them as long
26 as they remain in effect.

27 D. The provisions of this Section shall go into effect thirty days from the
28 effective date of this Part for parishes and municipalities that have code enforcement
29 procedures in place on the effective date of this Part. For those parishes and

municipalities without code enforcement procedures, the provisions of this Section shall be applied no later than ninety days from the effective date of this Part.

§1730.28. Mandatory adoption of certain nationally recognized codes and standards as the state uniform construction code; adoption by reference

A. The council shall adopt and amend only the latest editions of the following as the state uniform construction code:

(1) International Building Code, not including Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(2) International Existing Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(3) International Residential Code, not including Parts I-Administrative, V-Mechanical, VII-Plumbing, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code, 2003 edition:

(a) Item 2, the Southern Building Code Congress International, *Standard for Hurricane Resistant Residential Construction* (SSTD 10), shall be replaced by the Institute for Business & Home Safety, *Guidelines for Hurricane Resistant Construction*, 2005.

(b) Amendment of R301.2.1.1 Design Criteria.

(c) Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added.

(d) Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added.

(e) Item 8, Federal Alliance for Same Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

(4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(5) The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

(6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) National Electric Code.

B. Within six months of the effective date of this Part, the council shall adopt the latest versions of the codes referenced in this Section.

§1730.29. Regulation of construction or improvement of industrial facilities

Excluding the applicable requirements of the Louisiana State Plumbing Code, the provisions of this Part shall not apply to the construction or improvement of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS):

1 (1) 22111 electric power generation.

2 (2) 321 wood products manufacturing.

3 (3) 322 paper manufacturing.

4 (4) 324 petroleum and coal products manufacturing.

5 (5) 325 chemical manufacturing.

6 (6) 326 plastics and rubber products manufacturing.

7 (7) 331 primary metals manufacturing.

8 (8) 562211/562212 hazardous and solid waste landfills.

9 (9) 422710 bulk stations and terminals.

10 (10) 486110 crude oil pipelines.

11 (11) 486910 refined petroleum products pipelines.

12 (12) 486210 natural gas pipelines.

13 (13) 486990 other pipelines.

14 (14) 211112 natural gas processing plants.

15 §1730.30. Regulation of construction or improvement of farm or recreational
16 structure; authority to issue building permits

17 A. For purposes of this Section, "farm structure" means a structure which is
18 constructed on a farm, other than a residence or a structure attached to it, for use on
19 the farm including but not limited to barns, sheds, and poultry houses, but not public
20 livestock areas. For purposes of this Section, "farm structure" does not include a
21 structure originally qualifying as a "farm structure" but later converted to another
22 use.

23 B. The governing authority of a parish or municipality may not enforce that
24 portion of the state uniform construction code which regulates the construction or
25 improvement of a farm structure or private outdoor recreational structure, other than
26 a residence or structure attached to a residence, such as a hunting or fishing camp.

27 C. For residential construction, the standards published by the Federal
28 Emergency Management Agency for the National Flood Insurance Program shall
29 apply.

1 D. The provisions of this Section shall not affect the power of the governing
2 authority of a parish or municipality to issue building permits before the construction
3 or improvement of a farm or private outdoor recreational structure.

4 §1730.31. Mandamus and injunctive relief for violation of code or regulation;
5 penalties

6 For a violation of the building codes or regulations adopted pursuant to this
7 Part, the local building official may enjoin further construction of the project as
8 provided by local ordinance. The municipal, district, or parish attorney, attorney
9 general, or other appropriate authorities of a political subdivision, in addition to other
10 remedies, may apply for injunctive relief, mandamus, or other appropriate
11 proceeding in the district court of the parish where the violation occurred.

12 §1730.32. Imposition of fees

13 Nothing in this Part shall prohibit the governing authority of a parish or
14 municipality from imposing fees necessary to implement and continue the provisions
15 required by this Part as provided by law.

16 §1730.33. Codes applicable to building inspections

17 Buildings must be inspected in accordance with the codes in effect for the
18 locality on the date of the issuance of the original building permit, except that:

19 (1) If no date of issuance of original building permit can be found, the date
20 of submission of the completed application to the local authority must be used.

21 (2) If no date of application for, or date of issuance of, a building permit is
22 available, the director of the applicable parish planning and development service or
23 similar agency shall determine the nearest possible date by using available
24 documents, such as transfer of property records, mortgage records, tax records, or
25 rent records.

1 §1730.34. Responsibility of Louisiana State Construction Code Council for
2 registration of building codes enforcement officers; record of hearings and
3 proceedings; register of applications for certificates of registration

4 A. The Louisiana State Uniform Construction Code Council is responsible
5 for the registration of building codes enforcement officers pursuant to this Part.
6 When used in this Part "building codes enforcement officer" means a person
7 employed by a public entity who is primarily responsible for the overall inspection
8 or enforcement of applicable building code requirements within the jurisdiction of
9 the employer.

10 B. The council or its designated representatives may conduct hearings and
11 proceedings required by law or considered necessary by the council. The council
12 and its members shall be subject to the open meetings law, the public records law,
13 and the code of governmental ethics, provided however, that when any member of
14 the council has a real or perceived conflict of interest upon an issue before the
15 council, he shall recuse himself from participation in that issue by providing a verbal
16 explanation of the real or perceived conflict to the council. The Department of
17 Public Safety and Corrections shall employ and supervise personnel necessary for
18 the administration of this Part. The council may promulgate regulations under the
19 provisions of the Administrative Procedure Act for the proper enforcement of this
20 Part.

21 C. The council shall keep a record of its hearings and proceedings and a
22 register of applications for the certificates of registration showing the date of
23 application, name, qualifications, and addresses of the business and residence of the
24 applicant and whether the certificate is approved or denied. The council shall
25 publish at least annually the applications in the register which are approved.
26 Applicants and registrants shall notify the council of changes in required information
27 within ten days of a change.

1 §1730.35. Application and issuance of certificates of registration; provisional
2 certificates of registration; revocation

3 A. A person desiring to be registered as a building code enforcement officer
4 as required by this Part shall apply upon a form prescribed by the council.

5 B. An applicant shall furnish satisfactory proof to the council of valid
6 certification by a recognized code organization or testing agency that is prescribed
7 by the council in the general or special capacity in which he desires to be registered.
8 Special certificates of registration authorize the registrant to practice in the named
9 specialty only. General certificates of registration are not restricted. The council or
10 its designated representatives shall review the guidelines employed by the
11 organization or agency in order to determine their continued compatibility with the
12 requirements considered by the council to be consistent with this Part.

13 C. Certificates of registration may be issued without certification by a
14 recognized code organization or testing agency to building code enforcement officers
15 employed in code enforcement on the effective date of this Part only for the position
16 and locality held at the time of registration pursuant to this Section. This registration
17 is valid for three years for building officials and six months for building inspectors
18 and plans reviewers. The certificates of registration provided for in this Subsection
19 may not be renewed except as provided in Subsection B of this Section.

20 D. Upon initial employment by a parish, municipality, or other political
21 subdivision, an individual must be granted a provisional certificate of registration
22 without certification by a recognized code organization or testing agency, provided
23 that such individual is under the supervision of a code enforcement officer who is
24 certified by the International Code Council. Such provisional certificate of
25 registration is valid for the time period stipulated by regulation of the council for
26 each registration classification from the date of issuance. The provisional certificate
27 of registration may not be renewed except as provided in Subsection B of this
28 Section.

1 E. The council shall have the authority to suspend or revoke certificates of
2 registration upon any violation of this Part after notice and a proper hearing. The
3 council shall implement rules for such proceedings under the Administrative
4 Procedure Act.

5 §1730.36. Registration required to practice as code enforcement officer; violations;
6 penalty

7 No person may practice as a code enforcement officer in this state unless
8 registered as provided in this Part. A person violating the provisions of this Part is
9 guilty of a misdemeanor and, upon conviction, must be fined not more than two
10 hundred dollars or imprisoned not more than thirty days. Each day the violation
11 continues is a separate offense.

12 §1730.37. Injunction to restrain person from violating this Part

13 If the council has reason to believe that a person is violating or intends to
14 violate a provision of this Part, in addition to other remedies, it may order the person
15 immediately to refrain from the conduct. The council may apply to the district court
16 of the parish for an injunction restraining the person from the conduct. The court
17 may issue a temporary injunction ex parte not to exceed ten days and upon notice
18 and full hearing may issue other orders in the matter it considers proper. No bond
19 is required of the council by the court as a condition to the issuance of an injunction
20 or other order pursuant to this Part.

21 §1730.38. Duration of certificates; renewal; continuing education requirements;
22 funding

23 A certificate of registration issued under R.S. 40:1730.35(B) is valid for one
24 year and expires on the last day of the month of issuance. Renewal of all
25 registrations must be based upon a determination by the council of the applicant's
26 participation in council-approved continuing education programs. The council must
27 promulgate regulations setting forth the continuing education requirements for
28 building code enforcement officers. A person failing to make timely renewal of his
29 certificate is not registered unless qualified in the manner provided for new

1 registrants under R.S. 40:1730.35(B) and may not practice until registered in
2 accordance with this Part.

3 §1730.39. Powers of state fire marshal

4 A. The state fire marshal may establish contract agreements with
5 municipalities and parishes in order to provide code enforcement on behalf of the
6 municipality or parish as provided in R.S. 40:1730.24 of this Part.

7 B. Nothing in this Part shall be construed so as to prevent the state fire
8 marshal from enforcing the fire protection, life safety, handicapped accessibility, and
9 high rise laws of this state, the enforcement of which are his statutory and regulatory
10 responsibility.

11 C. Nothing in this Part shall be construed so as to prevent the state fire
12 marshal from enforcing the Commercial Building Energy Conservation Code as
13 provided in R.S. 40:1730.41 et seq.

14 Section 3. Part IV-A of Chapter 8 of Title 40 of the Louisiana Revised Statutes of
15 1950, comprised of R.S. 40:1725 through 1730.1, is hereby repealed in its entirety.

16 Section 4. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Pinac

HB No. 76

Abstract: Provides for changes to the state uniform construction code and creates the Louisiana State Uniform Construction Code Council.

Present law provides that the performance of any enforcement procedure in connection with any building code shall be deemed a discretionary act.

Proposed law repeals present law.

Proposed law provides for a public policy and legislative intent regarding the state uniform construction code.

Proposed law creates the Louisiana State Uniform Construction Code Council and provides that each member of the council shall be appointed by the governor, subject to Senate confirmation, for a term of three years and until a successor is appointed and qualifies. The council shall consist of 19 members and no member of the council shall receive per diem or other compensation for their duties on the commission.

Proposed law provides that the primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and accept all requests for amendments of the code, except the Louisiana State Plumbing Code.

Proposed law specifically provides that the council shall establish requirements for certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and determine if any amendments to the state uniform construction code are justified. Proposed law provides that if the council determines that an amendment is justified, it may enact such amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, and welfare.

Proposed law provides that the council shall elect from its members a chairman and vice chairman from its membership. The chairman may call a meeting and must call a meeting at the request of three or more members of the council within 14 days of such request.

Proposed law provides each meeting shall be open to the public and any official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to a vote. A majority of members of the council shall constitute a quorum.

Proposed law provides that the council and its members shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities and that the state shall hold the council and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies.

Present law provides that if a building code is adopted by any political subdivision of this state, it must adopt the state uniform construction code.

Proposed law changes present law by providing that all municipalities and parishes in this state shall enforce the state uniform construction code provided for in proposed law.

Proposed law provides that nothing in proposed law shall conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction or the provisions of present law that relate to manufactured housing installation.

Proposed law provides that the provisions of proposed law do not limit the authority of parishes or municipalities to enact and enforce stricter building codes as long as they do not diminish the requirements established in proposed law.

Proposed law retains present law and provides a hold harmless provision for government entities and its employees providing code enforcement.

Proposed law provides that municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in accordance with proposed law.

Proposed law provides that commercial and residential contractors may establish agreements with certified third-party providers to conduct plans review and inspections and to enforce the state uniform construction code. A third-party provider shall be certified by the International Code Council for purposes of the emergency provisions of proposed law.

Thereafter, a third-party provider shall meet the requirements imposed by the council for certificates of registration.

Proposed law provides that under the emergency provisions of proposed law, every certified third-party provider doing business within the state shall notify the Dept. of Public Safety and Corrections and the department shall maintain a listing of the name of the provider and the name and location of the person or entity with whom the provider has contracted to provide enforcement services. Proposed law provides that once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state and the council shall maintain a listing of all certified third-party providers.

Proposed law provides that each parish and municipality shall appoint a council-certified building official or contract with other governmental entities or third parties in order to be under the jurisdiction of a council-certified building official. Proposed law provides that a parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality.

Proposed law provides that the council shall review, adopt, modify, and promulgate the state uniform construction code by rules and regulations under the provisions of the Administrative Procedure Act.

Proposed law provides that the state uniform construction code shall be updated every three years.

Proposed law provides that the wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified in this proposed law, and amending Section 301.2.1.1(2) to replace "Southern Building Code Congress International Standard for Hurricane Resistant Residential Construction (SSTD 10)" with the Guidelines for Hurricane Resistant Construction as published by the Institute for Business and Home Safety, 2005 shall apply to the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

Proposed law provides that the emergency wind and flood building requirements adopted shall remain in force until the council adopts the latest editions of both the International Building Code and the International Residential Code, as modified by proposed law, as minimum mandatory statewide codes.

Proposed law provides that if municipalities and parishes are unable to enforce the emergency wind and flood mitigation requirements prescribed in proposed law within the time period provided by proposed law, the Louisiana Dept. of Public Safety and Corrections shall enforce them as long as they remain in effect.

Proposed law provides that emergency provisions of proposed law shall go into effect 30 days from the effective date of proposed law for parishes and municipalities that have code enforcement procedures in place. Proposed law provides that for those parishes and municipalities without code enforcement procedures, the emergency provisions shall be applied no later than 90 days from the effective date of proposed law.

Present law provides that the model codes of the International Building Code, 2000 Edition, published by the International Code Council, the National Electrical Code, published by the National Fire Protection Association, as well as Part XIV (Plumbing) of the State Sanitary Code, are designated as the state uniform construction code.

Proposed law changes present law and provides that the council shall adopt and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code, not including Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (2) International Existing Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (3) International Residential Code, not including Parts I-Administrative, V-Mechanical, VII-Plumbing, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code, 2003 edition:
 - (a) Item 2, the Southern Building Code Congress International, Standard for Hurricane Resistant Residential Construction (SSTD 10), shall be replaced by the Institute for Business & Home Safety, Guidelines for Hurricane Resistant Construction, 2005.
 - (b) Amendment of R301.2.1.1 Design Criteria.
 - (c) Item 6, the American Concrete Institute, Guide to Concrete Masonry Residential Construction in High Winds Areas, shall be added.
 - (d) Item 7, Institute for Business & Home Safety, Optional Code-plus Fortified for Safer Living, shall be added.
 - (e) Item 8, Federal Alliance for Same Homes, Optional Code-plus Blueprint for Safety, shall be added.
- (4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (5) The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Dept. of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.
- (6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- (7) National Electric Code.

Proposed law provides that within six months of the effective date of proposed law, the council shall adopt the latest versions of the codes referenced in proposed law.

Proposed law provides that excluding the applicable requirements of the Louisiana State Plumbing Code, the provisions of proposed law shall not apply to the construction or improvement of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
- (2) 321 wood products manufacturing.
- (3) 322 paper manufacturing.
- (4) 324 petroleum and coal products manufacturing.
- (5) 325 chemical manufacturing.
- (6) 326 plastics and rubber products manufacturing.
- (7) 331 primary metals manufacturing.
- (8) 562211/562212 hazardous and solid waste landfills.
- (9) 422710 bulk stations and terminals.
- (10) 486110 crude oil pipelines.
- (11) 486910 refined petroleum products pipelines.
- (12) 486210 natural gas pipelines.
- (13) 486990 other pipelines.
- (14) 211112 natural gas processing plants.

Proposed law provides that the governing authority of a parish or municipality may not enforce that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp.

Proposed law defines "farm structure" as a structure which is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including but not limited to barns, sheds, and poultry houses, but not public livestock areas. Proposed law provides that a "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

Proposed law provides that for residential construction, the standards published by the Federal Emergency Management Agency for the National Flood Insurance Program shall apply.

Proposed law provides that the farm structure provisions in proposed law shall not affect the power of the governing authority of a parish or municipality to issue building permits before the construction or improvement of a farm or private outdoor recreational structure.

Proposed law provides that the local building officials, municipal, district, or parish attorney, attorney general, or other appropriate authorities may apply for mandamus and injunctive relief and enjoin further construction on a project based on a violation of proposed law.

Proposed law provides that nothing in proposed law shall prohibit the governing authority of a parish or municipality from imposing fees necessary to implement and continue the provisions of proposed law.

Proposed law provides that buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit, except that:

- (1) If no date of issuance of original building permit can be found, the date of submission of the completed application to the local authority must be used.
- (2) If no date of application for, or date of issuance of, a building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records.

Proposed law provides that the Louisiana State Uniform Construction Code Council is responsible for the registration of building codes enforcement officers. Proposed law defines a "building codes enforcement officer" as a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Proposed law provides the council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council and provides that the Dept. of Public Safety and Corrections shall employ and supervise personnel necessary for administrative duties.

Proposed law provides that the council and its members shall be subject to the open meetings law, the public records law, and the code of governmental ethics, provided however, that when any member of the council has a real or perceived conflict of interest upon an issue before the council, he shall recuse himself from participation in that issue by providing a verbal explanation of the real or perceived conflict to the council.

Proposed law provides that the council shall keep a record of proceedings and a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish at least annually the applications in the register which are approved.

Proposed law provides that an applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency that is prescribed by the council in the general or special capacity in which he desires to be registered. Special certificates of registration authorize the registrant to practice in the named specialty only. General certificates of registration are not restricted. Proposed law provides that the council shall review the guidelines employed by the certifying organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with proposed law.

Proposed law provides that certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers employed in code enforcement on the effective date of proposed law only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. The certificates of registration may not be renewed except as provided in proposed law.

Proposed law provides that upon initial employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a code enforcement officer who is certified by the International Code Council. Such provisional certificate of registration is valid for the time period stipulated by regulation of the council for each registration classification. The provisional certificate of registration may not be renewed except as provided in proposed law.

Proposed law provides the council shall have the authority to suspend or revoke certificates of registration upon any violation of proposed law after notice and a proper hearing. The council shall implement rules for such proceedings under the Administrative Procedure Act.

Proposed law provides that no person may practice as a code enforcement officer in this state unless registered as provided in proposed law. A person violating proposed law is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or imprisoned not more than 30 days. Each day the violation continues is a separate offense.

Proposed law provides that the council may apply for an injunction against a person it believes is violating or intends to violate proposed law and no bond is required of the council by the district court as a condition to issuance of an injunction.

Proposed law provides that a certificate of registration issued under proposed law is valid for two years and expires on the last day of the month of issuance. Renewal of all registrations is based upon a determination by the council of the applicant's participation in council-approved continuing education programs. Proposed law provides that a person failing to make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants and may not practice until registered under proposed law.

Present law provides that if a political subdivision chooses not to enforce a building code on its own upon request of a local jurisdiction, the state fire marshal may enforce at his option the state uniform construction code on its behalf and charge plan reviews fees based on a schedule in present law.

Proposed law changes present law by repealing the fee schedule and by providing that the state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in proposed law.

Proposed law provides that nothing in proposed law shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, handicapped accessibility, and high rise laws of this state, or as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 33:4773(D); Adds R.S. 40:1730.21-1730.39; Repeals R.S. 40:1725-1730.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Repeals provision that states that enforcement of building code is a discretionary act.
2. Provides that no council member shall receive per diem or other compensation.
3. Provides that the council shall establish requirements for certification and continuing education and determine if any amendments to the state uniform construction code are justified.
4. Provides for immunity of council and its members for actions taken in good faith in discharge of their duties.
5. Provides that proposed law shall not conflict with present law that relates to manufactured housing installation.
6. Provides that parishes or municipalities may enact and enforce stricter building codes as long as they do not diminish the requirements established in proposed law.
7. Provides that commercial and residential contractors may establish agreements with certified third-party providers to conduct plans review and inspections and to enforce the state uniform construction code.

8. Provides that a parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality.
9. Provides that emergency provisions shall apply to the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.
10. Provides that emergency provisions go into effect 30 days from the effective date of proposed law for parishes and municipalities that have code enforcement and no later than 90 days for areas without code enforcement.
11. Provides for additional industrial exceptions to proposed law.
12. Deletes requirement that an affidavit must be filed in order to qualify as a farm structure.
13. Provides exception to proposed law for private outdoor recreational structures such as hunting and fishing camps.