

Regular Session, 2014

HOUSE BILL NO. 1048

BY REPRESENTATIVES PONTI AND ORTEGO

COMMERCE: Requires the Louisiana State Uniform Construction Code Council to adopt certain codes relative to plumbing

1 AN ACT

2 To amend and reenact R.S. 37:1378(A)(3) and R.S. 40:5, 1722(B)(2), 1723(B), 1730.22(C),
3 1730.28(A)(1), (3)(a), and (5), and 1730.29(A)(introductory paragraph), to enact
4 R.S. 40:4(C) and (D) and 1730.23(I), and to repeal R.S. 40:4(A)(7), 1722(D), and
5 1730.28(A)(3)(h); relative to the regulation of plumbing; to provide for grounds for
6 disciplinary actions; to require the Louisiana State Uniform Construction Code
7 Council to adopt certain provisions relative to plumbing; to provide relative to the
8 duties of the state health officer; to provide relative to the authority of local building
9 officials; to provide for effective dates; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:1378(A)(3) is hereby amended and reenacted to read as follows:

12 §1378. Revocation of licenses; other disciplinary actions

13 A. The board may, pursuant to the procedures provided in the Administrative
14 Procedure Act, revoke, suspend, or refuse to renew any license or endorsement
15 issued by the board to any natural person. Grounds for revocation, or lesser
16 disciplinary action, include but are not limited to the following:

17 * * *

18 (3) The habitual performance of the work of either a journeyman plumber
19 or a master plumber which is substantially below the standards established by the
20 Department of Health and Hospitals or any of its agencies or offices, or promulgated
21 by the Louisiana State Uniform Construction Code Council or its successor, or the

1 habitual performance of work of a medical gas installer or medical gas and vacuum
2 systems verifier not in compliance with regulations of the state fire marshal or
3 related local governmental codes.

4 * *

5 Section 2. R.S. 40:5, 1722(B)(2), 1723(B), 1730.22(C), 1730.28(A)(1), (3)(a), and
6 (5), and 1730.29(A)(introductory paragraph) are hereby amended and reenacted and R.S.
7 40:4(C) and (D) and 1730.23(I) are enacted to read as follows:

8 §4. Sanitary Code

9 * * *

C. In all cases of conflict between rules and regulations promulgated pursuant to this Section and the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council, the provisions of the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, VII-Plumbing shall be used.

D. Nothing in this Section shall permit the state health officer acting through the office of public health of the Department of Health and Hospitals to establish rules, regulations, policies, or interpretations that supercede or circumvent or seek to supercede or circumvent the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce and interpret the plumbing provisions adopted pursuant to Part IV-A, State Uniform Construction Code, Chapter 8 of this Title.

29 * * *

1 §5. General powers and jurisdiction

2 A. The state health officer and the office of public health of the Department
3 of Health and Hospitals shall have exclusive jurisdiction, control, and authority:

4 (1) To isolate or quarantine for the care and control of communicable disease
5 within the state.

6 (2) To take such action as is necessary to accomplish the subsidence and
7 suppression of diseases of all kinds in order to prevent their spread.

8 (3) To enforce a sanitary code for the entire state containing provisions for
9 the improvement and amelioration of the hygienic and sanitary conditions of the
10 state.

11 (4) To enact provisions regulating the standards of health and decency and
12 building regulations of all prisons, jails, lock-ups, and camps where prisoners are
13 detained or confined.

14 (5) To supervise, inspect, and issue sanitation permits for water supplies,
15 slaughterhouses, cold storage plants, all places of public accommodation, and the
16 handling and control of hygienic conditions with respect to all food.

17 (6) To take such action as may be authorized by the administrator of the
18 Environmental Protection Agency under the federal Safe Drinking Water Act of
19 1974.

20 (7) To make all sanitary inspections and provide for the issuance of health
21 permits.

22 (8) Over the enforcement of controls and issuance of permits for the
23 distribution and handling of dangerous drugs.

24 (9) Over the treatment and disposal of municipal or domestic sewage.

25 (10) Over the reporting of communicable diseases.

26 (11) Over the gathering, keeping, reporting, and tabulating of vital and
27 mortuary records and statistics for all parishes of the state.

28 (12) Over the providing of facilities for vaccination.

1 (13) To assist in the supervision and operation of parish and municipal health
2 units and departments.

3 (14) Over the regulation of the carriage and transportation of persons,
4 freight, and dead bodies brought into the state or transported through or in the state
5 as they may affect public health.

6 (15) Over the sanitary inspection of meat, milk, and other products which
7 may affect public health and safety.

8 (16) Over the sanitary conditions required at any public gathering or
9 meeting.

10 (17) Over the adoption of rules and regulations regarding public health,
11 sanitary, and hygienic subjects, including those for standards governing noxious
12 odors.

13 (18) To promulgate rules and regulations in accordance with the
14 Administrative Procedure Act to establish a fee schedule, based on ability to pay or
15 eligibility for third party reimbursement, for services provided by the handicapped
16 children's services program and maternal and child health programs in the office of
17 public health.

18 (19) To conduct health inspections and issue health permits through state
19 employed licensed sanitarians, or by licensed sanitarians of parish health units or
20 departments.

21 (20) Over those functions of the state provided by law relating to
22 environmental quality and pollution control which are related to the public health and
23 which are specifically assigned to the department by statute.

24 (21)(a) To conduct health, safety, and sanitation inspections, through state
25 employed licensed sanitarians, of any place upon receipt of a complaint that the
26 department determines shows appropriate and sufficient grounds to indicate a health
27 hazard or sanitary code violation may exist, regardless of whether such place is
28 licensed or not, or otherwise regulated.

(b) In order to comply with the provisions of Subparagraph (a), a licensed sanitarian may, if necessary, seek and obtain an appropriate order or warrant from the state district court for the judicial district in which the place to be inspected is located to enter, examine, and inspect such place for a health hazard or sanitary code violation.

B. Nothing in this Section shall grant or be interpreted as to grant the state health officer or the office of public health of the Department of Health and Hospitals the authority to supercede the authority of municipalities or parishes to enforce and interpret the construction codes provided for in Part IV-A of Chapter 8 of this Title. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce and interpret the plumbing provisions adopted pursuant to Part IV-A of Chapter 8 of this Title.

* * *

§1722. Louisiana Building Code

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B. The Louisiana Building Code shall consist of the following designated and described codes and standards:

* * *

~~(2) Part XIV (Plumbing) of the State Sanitary Code as promulgated by the secretary of the Department of Health and Hospitals.~~ The International Plumbing Code, the International Building Code, Chapter 29-Plumbing Systems, and the International Residential Code, VII-Plumbing.

* * *

§1723. Administration; exception

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B. However, nothing contained herein shall affect the state fire marshal and his jurisdiction on matters of life safety and related areas as provided by Part III of

Chapter 7 of this Title, ~~and the secretary of the Department of Health and Hospitals shall administer the provisions of Part XIV (Plumbing) of the State Sanitary Code.~~

* * *

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

* * *

C. 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 [Part XIV (Plumbing) of the State Sanitary Code]~~. Specifically, the council shall establish the requirements and process for the 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. If the council determines that an amendment is justified, it may enact such an amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, affordability, and welfare. The council shall adopt rules in accordance with the Administrative Procedure Act in order to implement the provisions of this Part.

* * *

§1730.23. Enforcement of building codes by municipalities and parishes

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I. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce and interpret the plumbing provisions adopted pursuant to this Part.

* * *

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

A. Except as provided in Subsection C of this Section, the council shall evaluate, adopt, and amend only the latest editions of the following as the state uniform construction code:

(1) International Building Code, not including Parts I-Administrative, Chapter 11-Accessibility, and 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 shall be referenced by name or letter designation at the time of adoption.

* * *

(3)(a) International Residential Code, not including Parts I-Administrative; ~~VII-Plumbing~~, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option. The appendices of that code may be adopted as needed, but the specific appendix or appendices ~~must~~ shall be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which shall not be adopted by the council and may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall apply only to the International Residential Code, 2003 edition:

* * *

(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~~

1 public health of the Department of Health and Hospitals. Nothing in this Part shall
2 be construed so as to prevent the state health officer from enforcing Part XIV
3 (Plumbing) of the state Sanitary Code the enforcement of which is his statutory and
4 regulatory responsibility. The International Plumbing Code. The appendices of that
5 code may be adopted as needed, but the specific appendix or appendices shall be
6 referenced by name or letter designation at the time of adoption. The building
7 official for the parish, municipality, or regional planning commission, as authorized
8 in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified
9 building code enforcement officer designated by the building official, shall have the
10 authority to enforce and interpret the plumbing provisions adopted pursuant to this
11 Part.

* * *

§1730.29. Regulation of construction or improvement of industrial facilities

A. Excluding the applicable requirements of the ~~Louisiana State Plumbing Code~~ the International Plumbing Code, the provisions of this Part shall not apply to the construction or improvement inside the secured or fenced confines 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 2012 North American Industry Classification System (NAICS):

* * *

21 Section 3. R.S. 40:4(A)(7), 1722(D), and 1730.28(A)(3)(h) are hereby repealed in
22 their entirety.

Section 4. The Louisiana State Uniform Construction Code Council shall adopt and promulgate the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, International Residential Code, VII-Plumbing, no later than January 1, 2015. The International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, International Residential Code, VII-Plumbing, shall be effective sixty days following promulgation by the Louisiana State Uniform Construction Code Council.

1 Section 5. Sections 2, except for the provisions of R.S. 40:1730.28(A) as amended
2 by Section 2 of this Act, and 3 of this Act shall be effective sixty days following the
3 promulgation of International Plumbing Code, International Building Code, Chapter 29-
4 Plumbing Systems, International Residential Code, VII-Plumbing, by the Louisiana State
5 Uniform Construction Code Council.

6 Section 6(A). This Section, Sections 4, 5, and the provisions of R.S. 40:1730.28(A)
7 as amended by Section 2 of this Act shall become effective upon signature by the governor
8 or, if not signed by the governor, upon expiration of the time for bills to become law without
9 signature by the governor, as provided by Article III, Section 18 of the Constitution of
10 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act
11 shall become effective on the day following such approval.

12 (B) The plumbing provisions adopted pursuant to R.S. 40:1730.28(A) as amended
13 by this Act shall not be enforced until sixty days following promulgation by the Louisiana
14 State Uniform Construction Code Council.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ponti

HB No. 1048

Abstract: Requires the LSUCCC to adopt the International Plumbing Code.

Present law authorizes the state plumbing board to revoke, suspend, or refuse to renew a license or endorsement issued by the board for a number of reasons, including the habitual performance of the work of either a journeyman plumber or a master plumber which is substantially below the standards established by the Dept. of Health and Hospitals (DHH) or the habitual performance of work of a medical gas installer or medical gas and vacuum systems verifier not in compliance with regulations of the state fire marshal or related local governmental codes.

Proposed law retains present law but adds that the performance of work substantially below standards promulgated by the Louisiana State Uniform Construction Code Council (LSUCCC) or its successor as grounds for revocation, suspension, or refusal to renew a license or endorsement.

Present law requires the state health officer through the office of public health (OPH) of the DHH to prepare and promulgate all rules and regulations necessary to assure safe building plumbing systems, including but not limited to the building water supply piping system, the building drain system, and the building mechanical piping system.

Proposed law repeals present law.

Present law requires the state health officer to prepare and promulgate rules and regulations within the state's Sanitary Code covering all matters within his jurisdiction.

Proposed law retains present law and provides that present law shall not permit the state health officer to establish rules, regulations, policies, or interpretations that supercede or circumvent or seek to supercede or circumvent the International Plumbing Code, as adopted and promulgated by the LSUCCC.

Proposed law provides that in all cases of conflict between the rules and regulations promulgated pursuant to the rules and regulations within the state's Sanitary Code as promulgated by the state health officer and the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, VII-Plumbing, as adopted and promulgated by the LSUCCC, the provisions of the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, VII-Plumbing, as adopted and promulgated by the LSUCCC shall apply.

Proposed law provides that the building official or his designee shall have the authority to enforce and interpret the plumbing provisions of the state uniform construction code.

Present law provides that the state health officer and the office of public health of DHH has the exclusive jurisdiction, control, and authority of a number of matters that relate to plumbing.

Proposed law retains present law and provides that nothing in present law shall grant state health officer or the Office of Public Health of DHH the authority to supercede the authority of municipalities or parishes to enforce and interpret the plumbing provisions of the state uniform construction code.

Proposed law provides that the building official or his designee shall have the authority to enforce and interpret the plumbing provisions of the state uniform construction code.

Present law provides that the Louisiana Building Code shall consist of a number of designated and described codes and standards, including Part XIV (Plumbing) of the state Sanitary Code as promulgated by the secretary of DHH.

Proposed law removes the inclusion of Part XIV (Plumbing) of the state Sanitary Code as promulgated by the secretary of DHH and adds the International Plumbing Code, the International Building Code-Chapter 29-Plumbing Systems, and the International Residential Code, VII-Plumbing.

Present law provides that the Louisiana Building Code shall be administered by the facilities planning and control department of the Division of Administration and that nothing contained in the Louisiana Building Code shall affect the secretary of DHH in his administration of the provisions of Part XIV(Plumbing) of the state Sanitary Code.

Proposed law retains present law, but deletes that nothing contained in the Louisiana Building Code shall affect the secretary of DHH in his administration of the provisions of Part XIV(Plumbing) of the state Sanitary Code.

Present law provides that the primary function of the LSUCCC 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 La. State Plumbing Code [Part XIV (Plumbing) of the state Sanitary Code].

Proposed law retains present law but removes the exception for the La. State Plumbing Code.

Proposed law provides that the building official or his designee shall have the authority to enforce and interpret the plumbing provisions of the state uniform construction code.

Present law requires the LSUCCC to evaluate, adopt, and amend only the latest editions of the state uniform construction code with the exception of the La. State Plumbing Code [Part XIV (Plumbing) of the state Sanitary Code] which shall be promulgated and amended by the state health officer acting through OPH of DHH.

Proposed law retains present law but removes the exception for the La. State Plumbing Code.

Present law shall not be construed so as to prevent the state health officer from enforcing the La. State Plumbing Code, the enforcement of which is his statutory and regulatory responsibility.

Proposed law removes present law and requires the LSUCCC to evaluate, adopt, and amend the International Plumbing Code as part of the state uniform construction code and that the building official or his designee shall have the authority to enforce and interpret the plumbing provisions of the state uniform construction code.

Present law provides that, excluding the applicable requirements of the La. State Plumbing Code, the state uniform construction code shall not apply to the construction or improvement inside the secured or fenced confines of the following types of industrial facilities that are engaged in activities defined or classified under one or more of a number of subsectors, industry groups, or industries of the 2007 North American Industry Classification System (NAICS).

Proposed law retains present law and changes the La. State Plumbing Code to the International Plumbing Code.

Present law provides that in cases of conflict between the state Sanitary Code and the International Mechanical Code, the state Sanitary Code shall be used. In cases of conflict between the Life Safety Code and either the La. Building Code, the Plumbing part of the state Sanitary Code, the International Building Code, the International Mechanical Code and the National Electric Code, the Life Safety Code shall be used.

Proposed law repeals present law.

Present law provides that all plumbing and sanitary references in Part V-Mechanical in the International Residential Code shall be replaced with the applicable provisions of the La. State Plumbing Code, Part XIV, Plumbing, of the state Sanitary Code.

Proposed law repeals present law.

Proposed law provides that the LSUCCC shall adopt and promulgate the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, and the International Residential Code, VII-Plumbing, no later than Jan. 1, 2015. The codes shall be effective 60 days following promulgation.

Proposed law requires the Louisiana State Plumbing Code [Part XIV (Plumbing) of the state Sanitary Code] as amended by the state health officer acting through the OPH of DHH shall remain in effect until 60 days following the promulgation of the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, and the International Residential Code, VII-Plumbing by the LSUCCC.

Proposed law provides the deadline for the LSUCCC to promulgate International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, and the International

Residential Code, VII-Plumbing shall be effective upon signature of the Governor or upon lapse of time for gubernatorial action.

Proposed law provisions relative to plumbing will not be enforced for 60 days following promulgation by the LSUCCC.

(Amends R.S. 37:1378(A)(3) and R.S. 40:5, 1722(B)(2), 1723(B), 1730.22(C), 1730.28(A)(1), (3)(a), and (5), and 1730.29(A)(introductory paragraph); Adds R.S. 40:4(C) and (D) and 1730.23(I); Repeals R.S. 40:4(A)(7), 1722(D), and 1730.28(A)(3)(h)).