

**NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)**  
**Proposed Model State Uniform Building Code**

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*To be considered by the NCOIL Subcommittee on Natural Disaster Insurance Legislation on March 1, 2007.*

*Sponsored by Rep. George Keiser (ND)*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF \_\_\_\_\_

**Section 1: Purpose**

- A. This Act provides for the adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code that applies to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state to provide effective and reasonable protection for public safety, health, and general welfare at reasonable costs, and establishes a Building Code Commission to effect those ends.
- B. This Act establishes statewide building standards that would take effect one (1) year after enactment. For hurricane, flood, and seismic exposure areas in the state, the Act requires that such high-hazard areas implement those standards no later than 90 days following enactment.
- C. This Act is intended to permit the fullest use of modern technical methods, devices, and improvements; encourage the use of standardized construction practices, methods, equipment, materials, and techniques; and eliminate restrictive, obsolete, conflicting, and unnecessary building regulations.
- D. This Act provides that local governments shall have the authority to enforce the *[insert state]* Uniform Building Code.

## **Section 2: State Building Code Commission**

A. A Building Code Commission shall be established in the *[insert appropriate state agency]* to perform the following functions in establishing and administering the state's Uniform

Building Code program:

1. review, modify, update, and promulgate the building codes referenced below in accordance with provisions of this Act and the Administrative Procedures Act of this state
2. promulgate rules and regulations to modify portions of the *[insert state]* Uniform Building Code as provided by this Act
3. review and update the *[insert state]* Uniform Building Code at least every three (3) years
4. establish qualifications for personnel responsible for inspection and enforcement of the *[insert state]* Uniform Building Code
5. adopt rules and regulations prescribing minimum standards for administration and enforcement of the *[insert state]* Uniform Building Code
6. assist counties and municipalities in establishing programs to ensure consistent, effective, and efficient administration and enforcement of the *[insert state]* Uniform Building Code
7. develop, and in conjunction with counties and municipalities, disseminate training and education programs for code officials and contractors and programs to raise homeowners' awareness of steps that they may take to enhance the safety, comfort, value, and livability of buildings
8. review all requests from municipalities or counties for variation from the *[insert state]* Uniform Building Code to determine which variations, if any, are justified by local conditions and may be enacted after a finding on the record that modification

does not diminish structural integrity or stability to affect the public health, safety, and welfare

9. provide interpretations of contested provisions of the *[insert state]* Uniform Building Code
10. in conjunction with appropriate state, municipal, or county government agencies, resolve requirements of those agencies that conflict with the application or enforcement of the state Uniform Building Code

### **Section 3: Commission Membership**

- A. The Building Code Commission shall consist of 16 members appointed by the governor, subject to Senate confirmation, who each will serve for a period of four (4) years. Members shall be appointed within 15 days of the effective date of this Act. Initial appointments shall be staggered, with six (6) appointments for a two (2) year period; six (6) appointments for a three (3) year period; and three (3) appointments for a four (4) year period. Vacancies shall be filled for the remainder of an unexpired term.
- B. The Commission shall consist of:
  1. an architect licensed in this state
  2. a structural engineer licensed in this state
  3. a mechanical or electrical engineer licensed in this state
  4. a general contractor doing business in this state
  5. a residential contractor doing business in this state
  6. a municipal administrator, manager, or elected official
  7. a county administrator, manager, or elected official
  8. a representative of the State Fire Marshall
  9. a certified code enforcement official
  10. a representative of the plumbing industry doing business in this state

11. a representative of the electrical industry doing business in this state
12. a representative of the mechanical or gas industry doing business in this state
13. a representative of the manufactured housing industry
14. a disabled person
15. a representative of the property-casualty insurance industry
16. a representative of the general public

**Section 4: Commission Administration**

A. The Commission shall:

1. convene within 45 days of the effective date of this Act
2. elect from its members a chairman
3. meet at least four (4) times a year
  - a. at the call of the chair
  - b. at the request of a majority of its membership
  - c. at the request of the *[insert appropriate state agency]*
  - d. or at such times as may be prescribed by the Commission's rules

B. Members shall be notified in writing of the time and place of a regular or special meeting at least seven (7) days in advance of the meeting. A majority of members of the Commission shall constitute a quorum.

C. The Commission and its members shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities. The state shall hold the Commission and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matter to which immunity applies.

D. Members of the Commission shall receive per diem or other compensation for their duties on the Commission, as determined by state policy.

## **Section 5: State Uniform Building Code**

- A. The Commission, pursuant to the State Administrative Procedures Act, shall adopt a State Uniform Building Code to take effect within one (1) year of the effective date of this Act.
- B. The State Uniform Building Code shall contain or incorporate all laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such laws and rules, except as otherwise provided in this Section.
- C. The provisions of this Act shall not apply to structures that are constructed on a farm, other than residences or structures attached to them.
- D. The Commission shall adopt a State Uniform Building Code by reference to the latest editions of the following nationally recognized codes and the standards for the regulation of construction within this State: building, residential, existing buildings, gas, plumbing, mechanical, electrical, fire, and energy codes as promulgated, published, or made available by the International Code Council, Inc. and the National Electrical Code as published by the National Fire Protection Association. The appendices of the codes provided in this Section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.
- E. The Commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state provided that modifications do not diminish structural integrity or stability to affect the public health, safety, and welfare.
- F. Counties and municipalities, upon review and approval by the Commission, may adopt amendments to the technical provisions of the State Uniform Building Code that apply solely within their jurisdictions and that provide for more stringent requirements than those specified in the State Uniform Building Code.
- G. The Commission shall review and update the State Uniform Building Code at least every three (3) years.

- H. To the extent that federal regulations preempt state and local laws, nothing in this chapter shall conflict with the federal Department of Housing and Urban Development (HUD) regulations regarding manufactured housing construction and installation.

**Section 6: State Building Code Provisions Addressing Catastrophic Hazards—Wind, Flood, and Seismic**

- A. Wind and flood mitigation requirements prescribed by the 2006 or later International Building Code and 2006 or later International Residential Code are adopted by this Act and shall apply within *[insert appropriate areas of state]* and seismic requirements by the 2006 or later International Building Code and the 2006 or later International Residential Code shall apply within *[insert appropriate areas of state]*.
- B. Wind, flood, and seismic code provisions shall be enforced no later than 90 days from the effective date of this Act. If counties or municipalities are unable to enforce the provisions of this Section, the *[insert appropriate state agency]* shall enforce the provisions.
- C. The *[state agency]* may establish contract agreements with counties, municipalities, and third-party providers in order to provide enforcement of this Section.

**Section 7: Enforcement**

- A. Notwithstanding any other law to the contrary, all counties and municipalities in this state shall enforce only the State Uniform Building Code as provided for in this Act, including enforcing any more stringent county or municipal standards as authorized under Section 7(F).
- B. The Commission shall promulgate rules and regulations prescribing minimum standards for administration and enforcement of the State Uniform Building Code.
- C. Such rules and regulations shall address the nature and quality of enforcement and shall include, but not be limited to, the frequency of inspections; number and qualifications of staff, including qualifications required for inspectors; required minimum fees for administration and enforcement; adequacy of inspections; adequacy of means for insuring

compliance with the Uniform Code; and procedures whereby any provision or requirement of the State Uniform Building Code may be varied or modified, subject to requirements of this Act.

- D. Municipalities and counties may establish agreements with other governmental entities of the state to issue permits and enforce building codes in order to provide the services required by this Act.
- E. The Commission may assist in arranging for municipalities, counties, or consultants to provide the services required by this Act to other municipalities or counties if a written request from the governing body of such municipality or county seeking assistance is submitted to the Commission.

### **Section 8: Penalties**

Should any building or structure be maintained, erected, constructed, reconstructed, or its purpose altered, so that it becomes in violation of the State Uniform Building Code, either the county or municipal enforcement officer or the *[insert appropriate state agency]* may, in addition to other remedies, institute any appropriate action or proceeding in order to:

- A. prevent the unlawful maintenance, erection, construction, reconstruction, or alteration of the building/structure's purpose, or to prevent overcrowding,
- B. restrain, correct, or abate the violation, or
- C. prevent the occupancy or use of the building, structure, or land until the violation is corrected.

### **Section 9: Effective Date**

This Act shall take effect upon enactment.