

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 AMENDED

5 April 28, 2009

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H. 3550

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9 Introduced by Reps. Cato, Herbkersman, Agnew, Merrill,
10 Stavrinakis, Funderburk, Brady, Anderson, R.L. Brown, Kelly,
11 Limehouse, J.E. Smith, Whipper, Hutto, Allison, Parker, Sottile,
12 Erickson and Bales

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15 Read the first time February 17, 2009.

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A BILL

11 TO AMEND CHAPTER 10, TITLE 6, CODE OF LAWS OF
12 SOUTH CAROLINA, 1976, RELATING TO THE BUILDING
13 ENERGY EFFICIENCY STANDARD ACT, SO AS TO REVISE
14 THE TITLE OF THE ACT TO THE "ENERGY STANDARD
15 ACT", TO REVISE DEFINITIONS, TO ADOPT THE
16 INTERNATIONAL ENERGY CONSERVATION CODE AS
17 THE ENERGY STANDARD AND TO PROVIDE THAT ALL
18 NEW AND RENOVATED BUILDINGS MUST COMPLY
19 WITH THIS STANDARD, TO PROVIDE THAT LOCAL
20 BUILDING OFFICIALS SHALL ENFORCE THE ENERGY
21 STANDARD AND TO PROVIDE ALTERNATIVE
22 ENFORCERS IN AREAS WITHOUT A BUILDING OFFICIAL,
23 TO PROVIDE THAT BUILDING OFFICIALS SHALL ISSUE
24 AND REVOKE BUILDING PERMITS AND INSPECT
25 CONSTRUCTION OF BUILDINGS PURSUANT TO THE
26 PERMITS ISSUED, TO REQUIRE LOCAL JURISDICTIONS
27 TO PROVIDE AN APPEALS BOARD AND PROCESS FOR
28 GRANTING OF CERTAIN VARIANCES, TO PROVIDE AN
29 EXCEPTION AND TO ALLOW CERTAIN APPEALS TO BE
30 HEARD BY THE SOUTH CAROLINA BUILDING CODES
31 COUNCIL, AND TO PROVIDE THAT A PERSON OR PARTY
32 MAY OBTAIN INJUNCTIVE RELIEF; AND TO AMEND
33 SECTION 6-9-50, AS AMENDED, RELATING TO THE
34 MANDATORY ADOPTION OF CERTAIN NATIONAL
35 BUILDING CODES, BUILDING ENVELOPE
36 REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS
37 TO CODE DOCUMENTS, AND THREE STORY HOMES, SO
38 AS TO DELETE PROVISIONS RELATING TO WHAT
39 CONSTITUTES COMPLIANCE WITH THE BUILDING
40 ENVELOPE REQUIREMENTS OF THE ENERGY CODE,
41 FREE ACCESS TO DOCUMENTS CONTAINING CODES

1 ADOPTED BY THE BUILDING CODES COUNCIL, AND
2 BUILDING PERMITS FOR THREE STORY HOMES.

3 Amend Title To Conform

4

5 Be it enacted by the General Assembly of the State of South
6 Carolina:

7

8 SECTION 1. Chapter 10, Title 6 of the 1976 Code is amended to
9 read:

10

11 "CHAPTER 10

12

13 Building Energy Efficiency Standard Act

14

15 Section 6-10-10. This chapter may be cited as the ~~South~~
16 ~~Carolina Building Energy Efficiency Standard Act.~~

17

18 Section 6-10-20. ~~Wherever As used or referred to in this chapter,~~
19 ~~the terms defined herein have the meanings assigned to them~~
20 ~~unless a different meaning is clearly indicated by the context.:~~

21 (1) ~~'Building' means any combination of materials, whether~~
22 ~~portable or fixed, which comprises a structure affording facilities~~
23 ~~or shelter for any occupancy. The word 'building' shall be~~
24 ~~construed wherever used herein as if followed by the words 'or~~
25 ~~part or parts thereof and all equipment therein' unless the context~~
26 ~~clearly requires a different meaning. The term 'building' shall~~
27 ~~include manufactured buildings but not mobile homes or buildings~~
28 ~~heated to less than fifty degrees Fahrenheit.~~

29 (2) ~~'Construction' means the erection, fabrication,~~
30 ~~reconstruction, demolition, alteration, conversion, or repair of a~~
31 ~~building, or the installation of equipment therein.~~

32 (3) ~~'Equipment' means facilities or installation, including, but~~
33 ~~not limited to plumbing, heating, electrical, ventilating, air~~
34 ~~conditioning, lighting, refrigerating facilities or installations, and~~
35 ~~elevators, dumbwaiters, escalators, boilers, and pressure vessels.~~

36 (4) ~~'Local enforcement agency' means the agency of a local~~
37 ~~government with authority to make energy related inspections of~~
38 ~~buildings and to enforce the laws, ordinances, and regulations~~
39 ~~enacted by the State and the local government which establish~~
40 ~~standards and requirements applicable to the construction,~~
41 ~~alteration, repair and occupancy of buildings.~~

42 (5) ~~'Local government' means any county, city, municipal~~
43 ~~corporation, or other political subdivision of this State and state~~

1 agencies with authority to establish energy standards and
2 requirements applicable to the construction, alteration, repair and
3 occupancy of buildings.

4 (6) 'Renovations' means the condition where within any
5 twelve-month period, alterations or repairs costing in excess of
6 fifty percent of the then physical value of the building are made to
7 an existing building.

8 (7) 'Addition' means the extension or increase in floor area or
9 height of a building.

10 (8) 'One or two family dwelling' means any building which
11 contains one or two single units, each providing complete,
12 independent living facilities for one or more persons, including
13 permanent provisions for living, sleeping, cooking, and sanitation
14 and rented to be occupied or which is occupied for living purposes.

15 (1) 'Addition' means the extension or increase in floor area or
16 height of a building.

17 (2) 'Building' means any combination of materials, which
18 comprises a structure affording facilities or shelter for any
19 occupancy. The word 'building' must be construed wherever used
20 in this chapter as if followed by the words 'or part or parts of the
21 building and all equipment in the building' unless the context
22 clearly requires a different meaning. The term 'building' includes
23 manufactured buildings but not manufactured housing or buildings
24 heated to less than fifty degrees Fahrenheit.

25 (3) 'Building inspection department' means the agency of a
26 local jurisdiction with authority to make energy related building
27 inspections and to enforce state and local laws, ordinances, and
28 regulations applicable to the construction of buildings.

29 (4) 'Construction' means the erection, fabrication,
30 reconstruction, alteration, conversion, or repair of a building, or the
31 installation of equipment in a building.

32 (5) 'Equipment' means components associated with plumbing,
33 heating, electrical, ventilating, air conditioning, lighting and
34 refrigerating systems, and elevators, dumbwaiters, escalators,
35 boilers, and pressure vessels.

36 (6) 'Local jurisdiction' means a county, city, municipality, or
37 other political subdivision of this State.

38 (7) 'One- or two-family dwelling' means a building which
39 contains one or two units, each providing complete, independent
40 living facilities for one or more persons, including permanent
41 provisions for sleeping, cooking, and sanitation.

42 (8) 'Renovations' means the condition where within any
43 twelve-month period, alterations or repairs costing in excess of

1 fifty percent of the then physical value of the building are made to
2 an existing building.

3
4 Section 6-10-30. (a) ~~The current 2006 edition of Appendix J~~
5 ~~(Code for Energy Conservation in new building construction) to~~
6 ~~the Standard Building Code of the Southern Building Code~~
7 ~~Congress International, Incorporated, the International Energy~~
8 ~~Conservation Code is hereby adopted as the South Carolina~~
9 ~~Building Energy Efficiency Standard unless otherwise provided for~~
10 ~~in this chapter. All new and renovated buildings and additions~~
11 ~~constructed one hundred and twenty days after the effective date of~~
12 ~~this chapter within the State shall must comply with this standard.~~

13 (b) ~~Until one hundred and twenty days after adoption of the~~
14 ~~South Carolina Building Energy Efficiency Standard, energy~~
15 ~~related building regulations adopted by a local government shall~~
16 ~~continue in effect unless repealed. Thereafter, such regulations~~
17 ~~adopted by a local government shall be void and of no effect~~
18 ~~unless they are no less stringent than the South Carolina Building~~
19 ~~Energy Efficiency Standard. A building permit validly issued~~
20 ~~pursuant to local building regulations within one hundred and~~
21 ~~twenty days after adoption of the South Carolina Building Energy~~
22 ~~Efficiency Standard is valid thereafter and the construction of a~~
23 ~~building may be completed pursuant to and in accordance with the~~
24 ~~permit. In areas of the State having no building regulations or not~~
25 ~~requiring building permits, the construction of a building started~~
26 ~~before adoption of the South Carolina Building Energy Efficiency~~
27 ~~Standard may be completed without a building permit.~~

28 (c) ~~Until one hundred and twenty days after adoption of the~~
29 ~~South Carolina Building Energy Efficiency Standard, energy~~
30 ~~related building regulations for new and renovated buildings~~
31 ~~promulgated by any state board, department, commission or~~
32 ~~agency shall continue in effect unless repealed. Thereafter, such~~
33 ~~regulations shall be void and of no effect unless they are no less~~
34 ~~stringent than the South Carolina Building Energy Efficiency~~
35 ~~Standard.~~

36 (d) ~~Notwithstanding the provisions of subsection (a), in one~~
37 ~~and two family dwellings double pane or storm windows must be~~
38 ~~used for window glass and in the case of ceilings, exterior walls,~~
39 ~~floors with crawl space, and heating and air conditioning duct~~
40 ~~work, the determination of the minimum thermal resistance ratings~~
41 ~~(R-value) must be:~~

42 (1) ~~R-30 for ceilings, except for ceiling/roof combinations,~~
43 ~~which must be R-19;~~

- 1 (2) R-13 for exterior walls;
2 (3) R-19 for floors with crawl space;
3 (4) R-6, or the installed equivalent, for heating and air
4 conditioning duct work not located in conditioned space

5 Nothing in this subsection may be construed to inhibit utilization
6 of higher minimum thermal ratings.

7 To facilitate the affordability of purchases of housing, minimum
8 thermal resistance ratings of R-19 for ceilings and R-11 for floors
9 may be used provided the builder discloses the insulation levels to
10 the buyer. The disclosure must be on a form available from the
11 South Carolina Residential Builders Commission and a copy must
12 be submitted to the commission which must keep it for thirteen
13 years.

14
15 Section 6-10-40. A local enforcement agency jurisdiction may
16 propose appeal to the South Carolina Building Code Codes
17 Council changes in for a variance from the South Carolina
18 Building Energy Efficiency Standard for application within its
19 jurisdiction to cover based on special local conditions requiring
20 special or different building standards. The council shall may
21 approve any of such variations if it is established to the council's
22 satisfaction that the proposed variance:

23 (1) The proposed change is sufficiently consistent with the
24 South Carolina Building Energy Efficiency Standard this chapter,
25 so that its application will not substantially reduce statewide
26 uniformity of building regulations effective energy conservation;
27 or

28 (2) The proposed change does not discriminate against
29 particular technologies, techniques, or materials; or

30 (3) The proposed change does not unnecessarily increase the
31 cost of construction and operation of the building in the
32 jurisdiction; or

33 (4) The proposed change is necessary to protect the public
34 health, safety, and welfare within the jurisdiction.

35 Copies of any an approved changes shall variance must be
36 provided upon the request by the Council to the South Carolina
37 Office of Energy Resources State Energy Office.

38
39 Section 6-10-50. (a)(A) In areas of the State where local
40 governments have adopted building codes and appointed an
41 enforcement official, the enforcement building official shall be the
42 local enforcement agent Local building officials shall enforce the
43 provisions of the Energy Standard.

1 ~~(b)~~(B) In areas of the State where local governments have not
2 adopted building codes, they without a building official, the local
3 jurisdiction may designate their its engineer, or director of public
4 works, or their chief fire inspector as the enforcement agency, or
5 they may call upon the South Carolina Residential Home Builders
6 Commission to assist in enforcement for structures under their
7 jurisdiction. In the absence or unavailability of the above, they
8 shall advise the permittee of the provisions of the Energy
9 Efficiency Standards Act, and the penalties for violation to enforce
10 the provisions of the Energy Standard.

11 Upon request, the ~~Division of Energy of the~~ State Energy Office
12 ~~of the Governor~~ shall provide to counties and municipalities local
13 jurisdictions a brief synopsis of the Energy Efficiency Standards
14 Act Standard, the Residential Energy Efficiency Requirements that
15 apply to South Carolina, and penalties.

16 ~~(e)~~(C) The ~~local enforcement agencies shall be~~ building
17 officials are responsible for examination and approval or
18 disapproval of plans and specifications, the issuance and
19 revocation of building permits, licenses, certificates, and similar
20 documents, and the inspection of buildings pursuant to the
21 provisions of the ~~South Carolina Building Energy Efficiency~~
22 Standard.

23 ~~(d)~~ In areas of the State where building codes have not been
24 adopted, local governments shall appoint local appeals boards to
25 hear appeals brought in accordance with Section 6-10-70(b) of this
26 chapter. Until the boards are established, appeals shall be heard by
27 the South Carolina Building Code Council. A sufficient number
28 shall be appointed to allow appeals to be heard promptly by panels
29 of interest in the cases before them. A local government shall be
30 relieved of the duty to appoint local appeals boards if it is
31 established to the satisfaction of the Council that a sufficient
32 number of qualified people cannot be found in the jurisdiction or
33 through cooperation with neighboring jurisdictions.

34 ~~(e)~~ Two or more local governments may establish a local
35 enforcement agency or a local appeals board to serve their
36 jurisdictions, and in this event they shall share the expense
37 incurred.

38 ~~(f)~~(D) Except as otherwise provided in the ~~South Carolina~~
39 ~~Building Energy Efficiency~~ Standard, the construction of a
40 building shall must not begin until a building permit is issued.
41 Upon submission of an application to a ~~local enforcement agency~~
42 the building official, if the building proposed to be erected will
43 comply with this chapter ~~and the South Carolina Building Energy~~

1 ~~Efficiency Standard~~, a permit shall must be issued. A ~~local~~
2 ~~enforcement agency~~ The building official may suspend or revoke a
3 building permit if the building under construction pursuant ~~thereto~~
4 to that building permit does not comply with this chapter.

5 ~~(g)(E) A local enforcement agency shall~~ The building official
6 periodically shall inspect, or cause to be inspected, all construction
7 undertaken pursuant to permits issued by ~~that agency~~ the building
8 official to assure compliance with this chapter. ~~The applicant for a~~
9 ~~permit for the building under construction is deemed to have~~
10 ~~consented to inspection by a local enforcement agency by the act~~
11 ~~of applying for such permit.~~ If a building is found not to comply
12 with the ~~South Carolina Building Energy Efficiency Standard~~, the
13 ~~local enforcement agency~~ building official shall notify the
14 ~~permittee~~ permit holder in writing to bring the building into
15 compliance with the standard or to secure it from entry or both; if
16 the ~~permittee~~ permit holder fails to comply with the notification,
17 the ~~local enforcement agency~~ building official shall revoke the
18 permit.

19 ~~(h)(F) No~~ A building constructed after the effective date of the
20 ~~South Carolina Building Energy Efficiency Standard~~ shall must
21 not be used or occupied until a certificate of occupancy has been
22 issued. ~~Upon submission of an application for a certificate of~~
23 ~~occupancy to a local enforcement agency, certificate of occupancy~~
24 ~~shall be issued if the building to which the application pertains has~~
25 ~~been constructed in accordance with the building permit, the South~~
26 ~~Carolina Building Energy Efficiency Standard, and other~~
27 ~~applicable laws and ordinances.~~

28
29 Section 6-10-60. Each local government jurisdiction may
30 establish a schedule of fees for the functions performed by the
31 ~~local enforcement agency~~ building inspection department in
32 connection with the enforcement of this chapter.

33
34 Section 6-10-70. ~~(A) The General Assembly intends by the~~
35 ~~enactment of this section to~~ Local jurisdictions must provide an
36 appeals board and process for the routine granting of variations for
37 residential recreational dwellings not intended for use as
38 permanent residences and for buildings such as log buildings
39 which, if insulation were required on the walls, would change the
40 character of ~~such~~ these buildings. Until the boards are established,
41 appeals must be heard by the South Carolina Building Codes
42 Council. A local jurisdiction must be relieved of the duty to
43 appoint local appeals boards if it is established to the satisfaction

1 of the council that qualified people cannot be found in the
2 jurisdiction or through cooperation with neighboring jurisdictions.
3 Two or more local jurisdictions may establish a building board of
4 appeals to serve their jurisdictions.

5 ~~(a) In areas of the State where building codes have been~~
6 ~~adopted and boards of Adjustment and Appeals established in~~
7 ~~accordance with the Standard Building Code, such boards of~~
8 ~~Adjustment and Appeals may carry out their normal functions~~
9 ~~concerning variations, appeals and the requirements of the South~~
10 ~~Carolina Building Energy Efficiency Standard.~~

11 ~~(b) In areas of the State where local governments have not~~
12 ~~adopted building codes, appeals shall be made to the boards~~
13 ~~appointed by local governments under Section 6-10-50(d).~~

14 ~~(c)(B) Where local governments jurisdictions have been~~
15 ~~relieved of the duty to appoint an appeals board because a~~
16 ~~sufficient number of qualified people cannot be found in the~~
17 ~~jurisdiction, appeals may be made to the South Carolina Building~~
18 ~~Code Codes Council.~~

19 ~~(d)(C) The council shall promptly shall hear and decide appeals~~
20 ~~brought by any a person or party in an individual capacity, or on~~
21 ~~behalf of a call of persons or parties, affected by any a regulation~~
22 ~~or decision pursuant to this act chapter. Final decisions by the~~
23 ~~council are reviewable on appeal, or on successive appeals, in the~~
24 ~~courts of competent jurisdiction.~~

25
26 Section 6-10-80. ~~Any local enforcement agency or the Council The~~
27 ~~building official~~ may obtain injunctive relief from ~~any a~~ court of
28 competent jurisdiction to enjoin the offering for sale, delivery, use,
29 occupancy, erection, alteration, or installation of ~~any a~~ building
30 covered by this chapter, upon an affidavit from ~~such agency the~~
31 ~~building official~~ specifying the manner in which the building does
32 not conform to the requirements of this chapter ~~or the South~~
33 ~~Carolina Building Energy Efficiency Standard.~~

34
35 Section 6-10-90. ~~(a)(A) When a violation of the provisions of~~
36 ~~this chapter or the South Carolina Building Energy Efficiency~~
37 ~~Standard is discovered, the person in violation shall must be~~
38 ~~granted thirty days or no later than the time necessary to complete~~
39 ~~the construction to correct such the violation. Any A person who~~
40 ~~fails to correct such a violation shall be deemed is guilty of a~~
41 ~~misdemeanor and, upon conviction, shall must be fined not more~~
42 ~~than two hundred dollars or imprisoned for not more than thirty~~
43 ~~days for each offense.~~

1 ~~(b)~~(B) A separate violation is deemed to have occurred with
2 respect to each building not in compliance with ~~the act or the~~
3 ~~South Carolina Building Energy Efficiency Standard~~ this chapter.
4 Each day the violation continues constitutes a separate violation.”
5

6 SECTION 2. Section 6-9-50 of the 1976 Code, as last amended
7 by Act 83 of 2003, is further amended to read:
8

9 “Section 6-9-50. (A) The council shall adopt by reference and
10 amend only the latest editions of the following nationally
11 recognized codes and the standards referenced in those codes for
12 regulation of construction within this State: building, residential,
13 gas, plumbing, mechanical, fire, and energy codes as promulgated,
14 published, or made available by the International Code Council,
15 Inc. and the National Electrical Code as published by the National
16 Fire Protection Association. The appendices of the codes provided
17 in this section may be adopted as needed, but the specific appendix
18 or appendices must be referenced by name or letter designation at
19 the time of adoption. However, the provisions of the codes
20 referenced in this section which concern the qualification, removal,
21 dismissal, duties, responsibilities of, and administrative procedures
22 for all building officials, deputy building officials, chief inspectors,
23 other inspectors, and assistants do not apply unless they have been
24 adopted by the municipal or county governing body.

25 (B) The governing body of a county may not enforce that
26 portion of a nationally recognized fire prevention code it has
27 adopted which may regulate outdoor burning for forestry, wildlife,
28 and agricultural purposes as regulated by the South Carolina
29 Forestry Commission.

30 ~~(C) A residential building is considered in compliance with the~~
31 ~~Building Envelope Requirements of the Energy Code if:~~

32 ~~(1) it is built in compliance with prescriptive standards~~
33 ~~issued by the South Carolina Residential Builders Commission, in~~
34 ~~consultation with the State Energy Office, based on computer~~
35 ~~models of the Energy Code including, but not limited to, options~~
36 ~~developed by Pacific Northwest National Laboratories, or other~~
37 ~~nationally recognized laboratories which use the standards~~
38 ~~developed by Pacific Northwest National Laboratories, for South~~
39 ~~Carolina’s climatic zones, or~~

40 ~~(2) if double pane or single pane with storm windows are~~
41 ~~used for window glass and in the case of ceilings, exterior walls,~~
42 ~~floors with crawl space, and heating and air conditioning duct~~

1 work, the determination of the minimum thermal resistance ratings
2 (R-value) is:

3 (a) ~~R-30 for ceilings, except for ceiling/roof~~
4 ~~combinations, which must be at least R-19;~~

5 (b) ~~R-13 for exterior walls;~~

6 (c) ~~R-19 for floors with crawl space;~~

7 (d) ~~R-6, or the installed equivalent, for heating and air~~
8 ~~conditioning duct work not located in conditioned space.~~

9 (D) ~~All referenced codes adopted by the council shall be~~
10 ~~accessible at no cost to the public through the Department of~~
11 ~~Labor, Licensing and Regulation's Internet web page as a "read~~
12 ~~only" document.~~

13 (E) ~~Notwithstanding any provision of the referenced codes~~
14 ~~adopted by the council, a home with three floors of living space~~
15 ~~constructed on a raised foundation which is not used as living~~
16 ~~space is considered a three story building for the purposes of~~
17 ~~issuing a building permit to a person licensed under Title 40,~~
18 ~~Chapters 11 and 59. Any person authorized in South Carolina to~~
19 ~~design and construct buildings up to three stories is authorized to~~
20 ~~design and construct buildings described by this section."~~

21
22 SECTION 3. The provisions of this act do not apply to projects
23 which have received the proper permits as required by law before
24 the effective date of this act.

25
26 SECTION 4. This act takes effect July 1, 2009.

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28