

Final Report of the  
BUILDING CODE STUDY COMMITTEE

to the

SIXTY-FOURTH GENERAL ASSEMBLY

of the

STATE OF IOWA

Submitted January, 1971

## BUILDING CODE STUDY COMMITTEE

### FINAL REPORT

for 1970 Interim

The Building Code Study Committee was created by the Iowa Legislative Council and is composed of six members drawn from the standing state government committees of the Senate and House of Representatives. The Committee was created for the purpose of preparing a building code enabling act, providing for the establishment of a permissive building code.

The Committee is comprised of the following members:

Representative John E. Camp, Chairman  
Representative Murray C. Lawson  
Representative D. Vincent Mayberry  
Senator R. Dean Arbuckle  
Senator James W. Griffin, Sr.  
Senator James F. Schaben

The Committee's organizational meeting was held on September 4, 1970, with Representative John Camp serving as temporary chairman. The Committee elected Representative Camp as permanent chairman and Senator James Griffin as vice-chairman. Mrs. Elizabeth Isaacson, secretary, office of Chief Clerk of the House, served as secretary. Mr. Donald C. Hoskins, Legal Counsel, Legislative Service Bureau, served as legal adviser to the Committee.

At its organizational meeting the Committee heard from members of the 1968 Governor's Building Code Study Committee. The Committee was advised of the work of the 1968 Committee which resulted in the introduction of House File 36.

The Committee was presented with a proposed bill drafted by the Office for Planning and Programming. The bill was patterned after New York's law and provided for voluntary adoption by governmental subdivisions of the state building code. It also provided for mandatory statewide regulation on factory-built housing patterned after California's law.

The Committee requested that the Legislative Service Bureau do some research prior to the next Committee meeting and present its information to the Committee.

The Committee was concerned with the effect of this type of code on existing state agencies and requested that representatives of various agencies appear before the Committee. Representatives of the following state agencies appeared at the Committee hearings:

Employment Security Commission  
Department of Social Services  
    Architectural and Engineering Division  
State Fire Marshal's Office  
Department of Labor  
Treasurer of State  
Department of Health  
Office for Planning and Programming  
Governor's Committee on Employment  
    of the Handicapped  
Iowa Development Commission

The representatives of state agencies who expressed an opinion were unanimously in support of a state building code. Several suggestions were made concerning specific points which state agency representatives felt should be covered by the bill. The state officers who expressed an opinion were unanimous in suggesting the building code should be mandatory and statewide.

Representatives of the following private agencies met with the Committee:

Iowa Mobile Housing Institute  
Kolonial Industries  
Iowa Association of Plumbing, Heating & Cooling  
    Contractors  
Associated General Contractors of Iowa  
Master Builders of Iowa  
Rural Electric Cooperatives  
Iowa Inspection Bureau  
American Institute of Architects  
Iowa Federation of Labor  
Mason City Building Code Advisory Committee  
Sioux City Health Department  
Linn County Health Department  
National Association of Building Manufacturers  
Mechanical Contractors Association of Iowa  
Iowa Engineering Society & Consulting  
    Engineering Council

Not all of these private agencies made presentations to the Committee; however, the Committee called for comments and suggestions and received any presentations which were offered to it from those present at each meeting. Committee members expressed concern at times that there appeared to be no organized opposition to the proposed bill. Opposition to specific provisions was expressed; however, no opposition developed to the concept of a state building code. Persons testifying before the Committee stated that they knew of no opposition and had encountered none themselves.

A representative of the Code and Standards Section, Building Research Division, National Bureau of Standards, appeared before the Committee. The representative reported generally on building codes and problems in the area. He discussed with the

Committee what other states, private agencies, and the federal government are doing in the area.

The Committee during the course of its study received the following materials, either from the Legislative Service Bureau or from those persons appearing before the Committee:

1. A proposed bill draft for a state building code
2. (Table of) Information Supporting an Enabling Act for a Uniform State Building Code in Iowa
3. (Table of the) Need for Uniform Building Code
4. Suggested state legislation on factory-built housing
5. Report of the Mason City building code advisory committee
6. (Table of) Current Status of State Building Codes
7. Selected samples of Iowa departmental rules relevant to a building code study
8. Building code statutes from: New York, Connecticut, North Carolina
9. A Commission Report - Building Codes: A Program for Intergovernmental Reform, Advisory Commission on Intergovernmental Relations, 1966
10. Volumes containing actual rules and regulations constituting state building codes or suggested uniform codes prepared by private agencies

After meeting with the above named groups and individuals and reviewing the above materials, the Committee found:

1. The Code of Iowa, section 368.9, permits the adoption and administration of a building code by the municipal and county governments with certain limitations. Most large cities and some smaller cities and towns do have locally adopted building codes which are based on the "Uniform Building Code" (a private model code group). However, local amendments have been made in many locations so that uniformity between cities cannot be assumed. Many smaller cities, towns, and county governments do not have building codes, and must rely on state agency administered rules and regulations to set the minimum requirements for housing construction, plumbing and mechanical requirements, electrical requirements, fire safety, etc.

2. Several state agencies administer partial state codes which should be a part of a comprehensive building code. These agencies also have adopted supplemental departmental rules or federal regulations with the result that gaps between some areas

occur, and there are overlapping rules in other areas.

3. Obsolete code requirements, unnecessary diversity of the requirements among local jurisdictions, and inadequate administration and enforcement, taken together tend to place unjustified burdens on the technology and economics of building.

4. Too many building codes contain unnecessarily high standards, prevent the use of economical methods and materials in building, and include provisions extraneous to the basic purposes and objectives of building controls. Local governments in the exercise of their building regulatory powers often include provisions that go beyond establishment of minimum requirements for public health, safety, and welfare. The cost of adhering to excessive requirements bearing only superficial relation to health and safety, limits the economic range of housing that can be made available within a community.

5. The full benefits of a comprehensive building construction code cannot be realized unless the construction aspects of mechanical (i.e., plumbing, electrical, elevator), fire, and special-use (factories, hospitals, hotels, theaters, etc.) codes are integrated within the requirements of a single building construction code.

6. Approval procedures for building materials, components, and systems by a myriad of public and private groups has made the development and acceptance of new products a difficult process.

7. Many states have adopted mechanical codes that apply uniformly throughout the state, but to date only a handful of states have provided for adoption of statewide general building construction codes.

8. Intergovernmental problems of code uniformity are greatest in metropolitan areas. Current efforts in a number of metropolitan areas to achieve a common building code hold considerable promise in reducing diversity. But even if successful, these efforts have the inherent limitations of differing from the codes in other parts of the state and independence upon a variety of inspection practices among the localities adopting the code.

9. Although the federal government is involved in building code uniformity and modernization through direct construction, specifications for housing, housing guarantees, support of research, testing activities, and administration of antitrust laws, it has followed no consistent path or objective toward modernization and uniformity of codes.

10. Insufficient knowledge is available at the present time for the writing of full and complete "performance codes" (i.e., codes based upon performance such as load-bearing requirements, in contrast to specification of type and thickness of material). The availability of knowledge to establish performance criteria would go far toward encouraging development of new and improved building materials and reduction of restrictive building code practices.

11. A uniform building code would go far toward eliminating arbitrary restrictions adding to the cost of construction; it would stimulate initiative and innovation in the development of new construction materials and techniques by making possible a prompt, wide market for such products; it would eliminate the conflict arising from responsibility for both issuance and enforcement of codes; and it would reduce the cost of research, testing, maintenance, and servicing of building codes.

12. Even if the building industry continues to increase its efficiency and economy, the continuance of obsolete and diverse building codes will remain a formidable obstacle to the fullest exploitation of new technology.

13. That a uniform state building code would in addition to lowering construction cost, help reduce fire insurance rates, since as much as 18% of insurance rates are determined by reference to factors relating to or affected by the building code in effect.

14. There is support by individuals, groups, and state agencies for a mandatory statewide code rather than a voluntary code.

15. That New York's voluntary code has been adopted by over 95% of the governmental subdivisions since its promulgation about ten years ago, thereby accomplishing close to the same result as a mandatory statewide code.

#### Recommendations

Based on the conclusions drawn by the Committee from the data and information received and individuals consulted, the Committee recommends that the attached bill be introduced in the 64th General Assembly.

The attached bill generally provides:

1. For a building code commissioner who would be the director of municipal affairs in the Office for Planning and Programming.
2. That the commissioner, with the approval of an advisory council, will develop rules and regulations which will constitute the state building code.
3. That the state building code will apply mandatory statewide to:
  - (a) state-owned buildings
  - (b) factory-built structures

In all other cases it will apply only where the local governmental body has adopted it.

4. That once adopted by a governmental subdivision, the state code cannot be discontinued for one year and

cannot be altered by the governmental subdivision.

5. That the commissioner may, with approval of the advisory council, vary provisions of the code.

6. For an advisory seven-member council.

7. For a board of review to which appeals may be taken.

8. That appeals may be taken to the courts after administrative remedies are exhausted.

9. Enforcement of the code at the local level.

10. That violations of the code are misdemeanors.

11. That present state laws will continue in force where the state building code is not adopted.

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act to establish a state building code, provide for its ad-  
2 ministration, and provide a penalty for violation of the  
3 Code or orders issued thereunder.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. ESTABLISHMENT. This Act shall be known as the  
2 "State Building Code Act".

3 Sec. 2. DEFINITIONS. As used in this Act, unless the con-  
4 text otherwise requires:

5 1. "Commissioner" means the state building code commissioner  
6 created by this Act.

7 2. "Council" means the state building code advisory council  
8 created by this Act.

9 3. "Board of review" or "board" means the state building  
10 code board of review created by this Act.

11 4. "Governmental subdivision" means any city, town, county,  
12 or combination thereof.

13 5. "Building regulations" means any law, bylaw, rule, reso-  
14 lution, regulation, ordinance, or code or compilation enacted  
15 or adopted, by the state or any governmental subdivision, in-  
16 cluding departments, boards, bureaus, commissions or other  
17 agencies, relating to the construction, reconstruction, alter-  
18 ation, conversion, repair or use of buildings and installation  
19 of equipment therein. The term shall not include zoning ordin-  
20 ances or subdivision regulations.

21 6. "Local building regulations" means building regulations  
22 adopted by a governmental subdivision.

23 7. "Local building department" means an agency of any gov-  
24 ernmental subdivision charged with the administration, super-  
25 vision, or enforcement of building regulations, approval of  
26 plans, inspection of buildings, or the issuance of permits,  
27 licenses, certificates and similar documents, prescribed or  
28 required by state or local building regulations.

29 8. "State agency" means a state department, board, bureau,  
30 commission, or agency of the state of Iowa.

31 9. "Building" means a combination of any materials, whether  
32 portable or fixed, to form a structure affording facilities or  
33 shelter for persons, animals or property. The word "building"  
34 includes any part of a building unless the context clearly re-  
35 quires a different meaning.

1       10. "Structure" means that which is built or constructed,  
2 an edifice or building of any kind, or any piece of work arti-  
3 ficially built up or composed of parts joined together in some  
4 definite manner. The word "structure" includes any part of a  
5 structure unless the context clearly requires a different mean-  
6 ing.

7       11. "Equipment" means plumbing, heating, electrical, venti-  
8 lating, conditioning, refrigerating equipment, elevators, dumb  
9 waiters, escalators, and other mechanical facilities or instal-  
10 lations.

11       12. "Factory-built structure" means any structure which is,  
12 wholly or in substantial part, made, fabricated, formed, or  
13 assembled in manufacturing facilities for installation or as-  
14 sembly and installation, on a building site.

15       13. "Manufacture" is the process of making, fabricating, con-  
16 structing, forming, or assembling a product from raw, unfinished,  
17 or semifinished materials.

18       14. "Installation" means the assembly of factory-built struc-  
19 tures on site and the process of affixing factory-built structures  
20 to land, a foundation, footings, or an existing building.

21       15. "Construction" means the construction, erection, recon-  
22 struction, alteration, conversion, repair, equipping of build-  
23 ings, structures or facilities, and requirements or standards  
24 relating to or affecting materials used in connection there-  
25 with, including provisions for safety and sanitary conditions.

26       16. "Owner" means the owner of the premises, a mortgagee or  
27 vendee in possession, an assignee of rents, or a receiver, ex-  
28 ecutor, trustee, lessee or other person in control of a build-  
29 ing or structure.

30       17. "State building code" or "code" means the state building  
31 code provided for in section six (6) of this Act.

32       Sec. 3. COMMISSIONER. The director of the division of mu-  
33 nicipal affairs, in the office for planning and programming  
34 shall, in addition to his other duties, serve as the state  
35 building code commissioner, or may designate a building code

1 commissioner.

2 Sec. 4. COMMISSIONER--DUTIES. The commissioner shall:

3 1. Employ the necessary staff and assistants, within the  
4 limit of available funds, to assist in carrying out the pro-  
5 visions of this Act.

6 2. Appoint necessary consultants and advisors to assist  
7 the commissioner in carrying out the provisions of this Act.

8 3. Study the operation of the state building code, local  
9 building regulations, and other laws relating to the construc-  
10 tion of buildings or structures to ascertain their effects upon  
11 the cost of building construction and the effectiveness of their  
12 provisions for health, safety, and welfare.

13 4. Do all things necessary or desirable to further and ef-  
14 fectuate the general purposes and specific objectives of this  
15 Act.

16 Sec. 5. MERIT SYSTEM. Employees of the commissioner shall,  
17 where required by federal statutes, be covered by the provisions  
18 of chapter nineteen A (19A), Code 1971.

19 Sec. 6. STATE BUILDING CODE. The commissioner shall, with  
20 the approval of the advisory council, adopt rules and regula-  
21 tions relating to the construction of buildings and structures  
22 and shall include reasonable provisions for the following:

23 1. The installation of equipment.

24 2. The standards or requirements for materials to be used  
25 in construction.

26 3. The manufacture and installation of factory-built struc-  
27 tures.

28 4. Protection of the health, safety, and welfare of occu-  
29 pants and users.

30 5. The accessibility and use by physically handicapped and  
31 elderly persons, of buildings, structures, and facilities which  
32 are constructed in whole or part with public funds.

33 These rules and regulations shall comprise and be known as  
34 the state building code.

35 Sec. 7. STANDARDS. The state building code shall as far as

1 practical:

2 1. Provide uniform standards and requirements for construc-  
3 tion and construction materials, consistent with accepted stan-  
4 dards of engineering and fire-prevention practices.

5 2. Establish standards and requirements in terms of perform-  
6 ance objectives.

7 3. Establish as the test of acceptability, adequate per-  
8 formance for the intended use.

9 4. Permit the use of modern technical methods, devices, and  
10 improvements which tend to reduce the cost of construction with-  
11 out substantially affecting reasonable requirements for the  
12 health, safety, and welfare of the occupants or users of build-  
13 ings and structures.

14 5. Encourage the standardization of construction practices,  
15 methods, equipment, material, and techniques.

16 6. Eliminate restrictive, obsolete, conflicting, and unnec-  
17 essary regulations and requirements which tend to unnecessarily  
18 increase construction costs or retard unnecessarily the use of  
19 new materials, or provide unwarranted preferential treatment to  
20 types or classes of materials or products or methods of construc-  
21 tion.

22 Sec. 8. FACTORY-BUILT STRUCTURES. The state building code  
23 shall contain provisions relating to the manufacture and instal-  
24 lation of factory-built structures.

25 1. Factory-built structures manufactured in Iowa, after the  
26 effective date of the code, shall be manufactured in accordance  
27 with the code, unless the commissioner determines the structure  
28 is manufactured for installation outside the state.

29 2. Factory-built structures manufactured outside the state  
30 of Iowa, after the effective date of the code, and brought into  
31 Iowa for installation must, prior to installation, comply with  
32 the code.

33 3. Factory-built structures manufactured prior to the ef-  
34 fective date of the code, which prior to that date have never  
35 been installed, must comply with the code prior to installation.

1 4. All factory-built structures, without regard to manufac-  
2 ture date, shall be installed in accordance with the code.

3 5. Factory-built structures required to comply with the  
4 code provisions on manufacture, shall not be modified in any  
5 way prior to or during installation, unless prior approval is  
6 obtained from the commissioner.

7 6. The commissioner shall establish an insignia of approval,  
8 provide for inspection fees, and provide that factory-built  
9 structures required to comply with code provisions on manufac-  
10 ture bear an insignia of approval prior to installation. The  
11 insignia may be issued for other factory-built structures which  
12 meet code standards and which were manufactured prior to the  
13 effective date of the state building code.

14 7. The commissioner may contract with local government  
15 agencies for enforcement of the code relating to manufacture  
16 of factory-built structures. Code provisions relating to in-  
17 stallation of factory-built structures shall be enforced by  
18 the local building departments.

19 8. The governing body of governmental subdivisions which  
20 have no local building department at the effective date of the  
21 code, shall for a reasonable fee contract for the enforcement  
22 of installation provisions with the commissioner or another  
23 governmental subdivision.

24 Sec. 9. EFFECT AND APPLICATION.

25 1. The state building code shall, for the buildings and  
26 structures to which it is applicable, constitute a lawful local  
27 building code.

28 2. The state building code shall be applicable:

29 a. To all buildings and structures owned by the state or an  
30 agency of the state.

31 b. In each governmental subdivision where the governing body  
32 has adopted a resolution accepting the application of the code.

33 3. Provisions of the state building code relating to the  
34 manufacture and installation of factory-built structures shall  
35 apply throughout the state. Factory-built structures approved

1 by the commissioner shall be deemed to comply with all building  
2 regulations applicable to its manufacture and installation and  
3 shall be exempt from any local building regulations.

4 Sec. 10. RULES--PUBLIC HEARING.

5 1. After the formulation of any proposed rule or regulation,  
6 including any modification of an existing rule or regulation,  
7 the commissioner shall hold public hearings within the state  
8 and at reasonable hours. Notice of the hearings, together with  
9 a brief general description of the proposed rules or regulations,  
10 shall be provided by publication in at least five newspapers of  
11 general circulation within separate geographic areas of this  
12 state and by any other means the commissioner determines will  
13 afford adequate public notice. Public notice shall be given at  
14 least seven days prior to the hearings.

15 2. The text of any proposed rule or regulation shall be made  
16 available for inspection at the office of the commissioner and  
17 shall be distributed to the governmental subdivisions which have  
18 adopted the state building code, and to any other person who  
19 requests a copy.

20 3. Every rule or regulation adopted by the commissioner  
21 shall state the date on which it takes effect.

22 4. Every rule or regulation shall, immediately after adop-  
23 tion, be certified by the commissioner and transmitted to the  
24 secretary of state for filing in his office and shall then be-  
25 come a part of the state building code. Copies shall be sent  
26 by the commissioner to all governmental subdivisions which have  
27 adopted the state building code.

28 5. The provisions of this section shall not apply to any  
29 rule or regulation applicable solely to the organization or in-  
30 ternal management of the office of the commissioner and council.

31 Sec. 11. ADOPTION AND WITHDRAWAL--PROCEDURE. The state  
32 building code shall be applicable in each governmental subdivi-  
33 sion of the state in which the governing body has adopted or  
34 enacted a resolution accepting the applicability of the code  
35 and shall have filed a certified copy of the resolution in the

1 office of the commissioner and in the office of the secretary  
2 of state. The state building code shall become effective in  
3 the governmental subdivision upon the date fixed by the govern-  
4 mental subdivision resolution, if the date is not more than six  
5 months after the date of adoption of the resolution.

6 A governmental subdivision in which the state building code  
7 is applicable may by resolution, at any time after one year has  
8 elapsed since the code became applicable, withdraw from the ap-  
9 plication of the code, if before the resolution shall be voted  
10 upon, the local governing body shall hold a public hearing  
11 after giving not less than twenty nor more than thirty days'  
12 public notice, together with written notice to the commissioner  
13 of the time, place, and purpose of the hearing. A certified  
14 copy of the vote of the local governing body shall be trans-  
15 mitted within ten days after the vote is taken to the commis-  
16 sioner and to the secretary of state for filing. The resolution  
17 shall become effective at a time to be specified therein, which  
18 shall be not less than one hundred eighty days after the date  
19 of adoption. Upon the effective date of the resolution, the  
20 state building code shall cease to apply to the governmental  
21 subdivision except that construction of any building or struc-  
22 ture pursuant to a permit previously issued shall not be af-  
23 fected by the withdrawal.

24 A governmental subdivision which has withdrawn from the ap-  
25 plication of the state building code may, at any time there-  
26 after, restore the application of the code in the same manner  
27 as specified in this section.

28 Sec. 12. VARIANCES IN CODE. The commissioner may, with the  
29 approval of the advisory council, vary the application of any  
30 portion of the code:

31 1. To include or exclude specified types of buildings,  
32 structures, or areas of the state, when separate classification  
33 or regulation is necessary, desirable or proper to effectuate  
34 the purposes of this Act.

35 2. Upon request of a governmental subdivision for higher

1 or more restrictive standards for construction in the govern-  
2 mental subdivision, if the requested standards are necessary  
3 due to special conditions and conform to accepted engineering  
4 and fire-prevention practices.

5 The commissioner may, with the approval of the advisory coun-  
6 cil, limit the term or duration of a variance, impose conditions  
7 on granting a variance, or terminate a variance when necessary,  
8 desirable, or proper to effectuate the purposes of this Act.

9 Sec. 13. ADVISORY COUNCIL. There is hereby established a  
10 seven member council to be known as the state building code ad-  
11 visory council. The council shall elect from its membership a  
12 chairman. The members of the council shall be appointed by the  
13 governor and shall hold office commencing July 1, 1971, for four  
14 years and until their successors are appointed, except that three  
15 initial appointees shall be appointed for two-year terms and  
16 four initial appointees shall be appointed for four-year terms.  
17 The members of the council shall be persons who are qualified  
18 by experience or training to provide a broad or specialized  
19 expertise on matters pertaining to building construction. At  
20 least one of the members shall be a registered architect, at  
21 least one a professional engineer, and at least one of the mem-  
22 bers shall be a member of the building trades, each of whom  
23 shall be duly licensed to practice their respective professions  
24 in the state. Vacancies shall be filled in the same manner as  
25 the original appointments.

26 1. The council shall advise and confer with the commissioner  
27 in matters relating to the state building code.

28 2. The council members shall, at the request of the commis-  
29 sioner, hold public hearings and perform such other functions  
30 as the commissioner requests.

31 3. The council shall approve or disapprove the rules and  
32 regulations referred to in section six (6) of this Act and  
33 shall approve or disapprove the variances referred to in sec-  
34 tion twelve (12) of this Act. A majority vote of the council  
35 membership shall be required for these functions.

1 4. Any member of the council may be removed by the governor  
2 for inefficiency, neglect of duty, misconduct or malfeasance  
3 in office, after being given a written statement of the charges  
4 and an opportunity to be heard thereon.

5 5. Each member of the council shall receive per diem compen-  
6 sation at the rate of forty dollars per day for each day spent  
7 in the performance of his duties, but not to exceed twenty-five  
8 hundred dollars per year. All members of the council shall re-  
9 ceive necessary expenses incurred in the performance of their  
10 duties.

11 6. Five members of the council shall constitute a quorum  
12 for the purpose of conducting the business thereof.

13 7. Meetings of the council may be called by the commissioner.

14 Sec. 14. BOARD OF REVIEW. The commissioner shall establish  
15 a state building code board of review.

16 1. The board shall be composed of three members of the coun-  
17 cil. At least one member of the board shall be a registered  
18 architect or professional engineer.

19 2. Members of the board of review shall serve at the plea-  
20 sure of the commissioner.

21 3. No member of the board shall pass upon any question in  
22 which he or any corporation in which he is a stockholder is  
23 interested.

24 4. The commissioner may appoint alternate board members  
25 from the membership of the advisory council.

26 Sec. 15. BOARD OF REVIEW--APPEAL.

27 1. Any aggrieved person may appeal to the board for:

28 a. A variance from a code provision which would if strictly  
29 complied with:

- 30 (1) entail practical difficulties;  
31 (2) result in unnecessary hardship; or  
32 (3) otherwise be unwarranted.

33 b. A reversal, modification, or annulment of any ruling,  
34 direction, determination, or order of any state agency or lo-  
35 cal building department affecting or relating to the construc-

1 tion of any building or structure, the construction of which  
2 is pursuant or purports to be pursuant to the provisions of  
3 the state building code.

4 c. Review of the disapproval or failure to approve within  
5 sixty days after submission of:

6 (1) An application for permission to construct pursuant to  
7 the code, or

8 (2) Plans or specifications for construction pursuant to  
9 the code.

10 2. The board may, on satisfactory proof after public hear-  
11 ing, vary, modify, reverse, or annul any code provision or ac-  
12 tion appealed to the board. However, provision for health,  
13 safety, and welfare shall not be substantially modified or  
14 varied in an adverse manner, unless equally effective alterna-  
15 tives are prescribed.

16 Sec. 16. BOARD OF REVIEW--PROCEDURE. The board shall estab-  
17 lish procedures pursuant to which an aggrieved person may appeal  
18 to the board.

19 1. The board shall fix a reasonable time and place for a  
20 hearing and shall give due notice of a hearing to:

- 21 a. The applicant.  
22 b. The state agency or local building department involved.  
23 c. Any other person at the board's discretion.

24 2. Notice shall be by registered mail and shall:

- 25 a. Name the applicant.  
26 b. State the time and place of the hearing.  
27 c. State the general nature of the appeal.  
28 3. The following may appear and be heard at an appeal hear-  
29 ing:

- 30 a. The applicant, or his agent.  
31 b. The state agency or local building department involved.  
32 c. Any other person, at the board's discretion.

33 4. The board, in hearings conducted under this section,  
34 shall not be bound by common law or statutory rules of evidence  
35 or by technical or formal rules of procedure.

1       5. Applications shall be decided promptly. In every case  
2 the board shall state generally the reason for its decision.

3       6. The decision of the board shall state the date on which  
4 it takes effect, which shall be no earlier than five days sub-  
5 sequent to issuance of such decision, and a copy of the deci-  
6 sion, duly certified by the chairman of the board, shall be  
7 filed in the office of the commissioner, and a copy shall be  
8 sent to the parties and any state agency or local building  
9 department affected.

10       7. The decision of the board of review may be appealed to  
11 the commissioner by any party by filing a petition with the com-  
12 missioner at any time prior to the effective date of such deci-  
13 sion. The commissioner shall consider all questions of fact  
14 and law involved and issue his decision pertaining to the same  
15 not later than ten days after receipt of the appeal. Any party  
16 to the proceedings aggrieved by the decision of the commissioner  
17 may, within ten days after receipt of the commissioner's deci-  
18 sion, appeal the decision to the district court.

19       8. A record of all decisions of the board and commissioner  
20 shall be properly indexed and filed in the office of the com-  
21 missioner, and shall be public records as defined in chapter  
22 sixty-eight A (68A) of the Code.

23       9. The board may subpoena all of the papers and documents  
24 constituting the record upon which the application for a vari-  
25 ance, modification, reversal, annulment, or review is based, and  
26 the state, county, or municipal officer in charge thereof shall,  
27 upon receipt of the subpoena, transmit the papers and documents  
28 to the board.

29       10. All decisions of the board shall require the concurrence  
30 of at least two of its members.

31       Sec. 17. COURT PROCEEDINGS.

32       1. An appeal shall stay all proceedings on the matter ap-  
33 pealed unless there is a showing by the state agency or a local  
34 building department that a stay would involve imminent peril to  
35 life or property.

1        2. No court shall entertain an action based on the state  
2 building code unless all administrative remedies have been ex-  
3 hausted, except:

4        a. When the action is instituted by the state or a govern-  
5 mental subdivision; or

6        b. When there is good cause for the failure to exhaust ad-  
7 ministrative remedies.

8        3. Subject to subsection one (1) of this section, where  
9 the construction of a building or structure or use of a build-  
10 ing is in violation of any code provision or lawful order of a  
11 local building department, the district court may on petition  
12 order removal of the building, abatement as a public nuisance,  
13 or enjoin further construction.

14       4. Judicial review may be obtained by commencing an action  
15 in the county where the cause of action or some part thereof  
16 arose. The district court shall hear and decide the matter de  
17 novo.

18       5. An appeal from a decision of the district court may be  
19 taken to the supreme court as in other cases.

20       Sec. 18. ADMINISTRATION AND ENFORCEMENT. The examination  
21 and approval or disapproval of plans and specifications, the is-  
22 suance and revocation of building permits, licenses, certificates,  
23 and similar documents, the inspection of buildings or structures,  
24 and the administration and enforcement of building regulations  
25 shall be the responsibility of the governmental subdivisions of  
26 the state and shall be administered and enforced in the manner  
27 prescribed by local law or ordinance. All provisions of law re-  
28 lating to the administration and enforcement of local building  
29 regulations in any governmental subdivision shall be applicable  
30 to the administration and enforcement of the state building code  
31 in the governmental subdivision. An application made to a local  
32 building department or to a state agency for permission to con-  
33 struct a building or structure pursuant to the provisions of the  
34 state building code shall, in addition to any other requirement,  
35 be signed by the owner or his authorized agent, and shall contain

1 the address of the owner, and a statement that the application  
2 is made for permission to construct in accordance with the pro-  
3 visions of the code.

4 In aid of administration and enforcement of the state build-  
5 ing code, and in addition to and not in limitation of powers  
6 vested in them by law, each governmental subdivision of the  
7 state may:

8 1. Examine and approve or disapprove plans and specifica-  
9 tions for the construction of any building or structure, the  
10 construction of which is pursuant or purports to be pursuant  
11 to the provisions of the state building code, and to direct  
12 the inspection of buildings or structures during the course  
13 of construction.

14 2. Require that the construction of any building or struc-  
15 ture shall be in accordance with the applicable provisions of  
16 the state building code, subject, however, to the powers of var-  
17 iance or modification granted to the board of review in section  
18 fifteen (15) of this Act.

19 3. Order in writing any person to remedy any condition found  
20 to exist in, or about any building or structure in violation of  
21 the state building code. Orders may be served upon the owner or  
22 his authorized agent personally or by certified mail at the ad-  
23 dress set forth in the application for permission to construct a  
24 building or structure. Any local building department may grant  
25 in writing such time as may be reasonably necessary for achiev-  
26 ing compliance with an order.

27 4. Issue certificates of occupancy or use, permits, licenses,  
28 and other documents in connection with the construction of build-  
29 ings or structures as may be required by ordinance.

30 A certificate of occupancy or use for a building or structure  
31 constructed in accordance with the provisions of the state build-  
32 ing code shall certify that the building or structure conforms to  
33 the requirements of the code. The certificate shall be in the form  
34 the governing body of the governmental subdivision prescribes.

35 Every certificate of occupancy or use shall, until set aside

1 or vacated by the board of review, director, or a court of com-  
2 petent jurisdiction, be binding and conclusive upon all state  
3 and local agencies, as to all matters set forth and no order,  
4 direction, or requirement at variance therewith shall be made  
5 or issued by any other state or local agency.

6 5. Make, amend, and repeal rules for the administration and  
7 enforcement of the provisions of this section, and for the col-  
8 lection of reasonable fees in connection therewith.

9 6. Prohibit the commencement of construction until a permit  
10 has been issued by the local building department after a showing  
11 of compliance with the requirements of the applicable provisions  
12 of the state building code.

13 19. PERMITS--DUTY TO ISSUE.

14 1. If the plans and specifications accompanying an applica-  
15 tion for permission to construct a building or structure fail to  
16 comply with the provisions of building regulations applicable to  
17 the governmental subdivision where the construction is planned,  
18 the state or governmental subdivision official charged with the  
19 duty shall nevertheless issue a permit, license, certificate,  
20 authorization, or other required document, as the case may be,  
21 for the construction, if the plans and specifications comply  
22 with the applicable provisions set forth in the state building  
23 code, whenever such code is operative in such governmental sub-  
24 division.

25 2. Any building or structure constructed in conformance with  
26 the provisions of the state building code, shall be deemed to  
27 comply with all state, county, and municipal building regula-  
28 tions, and the owner, builder, architect, lessee, tenant, or  
29 their agents, or other interested person shall be entitled, up-  
30 on a showing of compliance with the code, to demand and obtain,  
31 upon proper payment being made in appropriate cases, any permit,  
32 license, certificate, authorization, or other required document,  
33 the issuance of which is authorized pursuant to any state or  
34 local buildings or structure regulation, and it shall be the duty  
35 of the appropriate state or local officer having jurisdiction

1 over the issuance to issue the permit, license, certificate,  
2 authorization, or other required document, as provided herein,  
3 whenever the code is operative in the governmental subdivision.

4 Sec. 20. PENALTY.

5 1. Any person served with an order pursuant to the provi-  
6 sions of subsection three (3) of section eighteen (18) of this  
7 Act, who fails to comply with the order within thirty days after  
8 service or within the time fixed by the local building depart-  
9 ment for compliance, whichever is longer, and any owner, builder,  
10 architect, tenant, contractor, subcontractor, construction super-  
11 intendent or their agents, or any other person taking part or  
12 assisting in the construction or use of any building or struc-  
13 ture who shall knowingly violate any of the applicable provi-  
14 sions of the state building code or any lawful order of a local  
15 building department made thereunder, shall be punishable by a  
16 fine of not more than one hundred dollars, or thirty days in  
17 jail, or by both fine and imprisonment.

18 2. Violation of this Act shall not impose any disability  
19 upon or affect or impair the credibility as a witness, or other-  
20 wise, of any person.

21 Violations of this section shall be misdemeanors, and municipi-  
22 pal, police, or mayors' courts shall have exclusive jurisdiction  
23 to originally hear and determine charges of violations.

24 3. As an alternative to filing criminal charges as provided  
25 in this section, the commissioner may file a petition in the dis-  
26 trict court and obtain injunctive relief for any violation of  
27 this Act.

28 Sec. 21. CONSTRUCTION OF STATUTE.

29 1. Nothing in this Act shall be construed as prohibiting  
30 any governmental subdivision from adopting or enacting any  
31 building regulations relating to any building or structure  
32 within its limits, but a governmental subdivision in which the  
33 state building code has been accepted and is applicable shall  
34 not have the power to supersede, void, or repeal or make more  
35 restrictive any of the provisions of this Act or of the rules

1 and regulations adopted by the commissioner.

2 2. Nothing in this Act shall be construed as abrogating or  
3 impairing the power of any governmental subdivision or local  
4 building department to enforce the provisions of any building  
5 regulations, or the applicable provisions of the state build-  
6 ing code, or to prevent violations or punish violators except  
7 as otherwise expressly provided in this Act.

8 3. The powers enumerated in this Act shall be interpreted  
9 liberally to effectuate the purposes thereof and shall not be  
10 construed as a limitation of powers.

11 Sec. 22. Chapter one hundred (100), Code 1971, is amended  
12 by adding the following new section:

13 "Provisions of this chapter in conflict with the state build-  
14 ing code shall not apply where the state building code has been  
15 adopted or when the state building code applies throughout the  
16 state."

17 Sec. 23. Chapter one hundred three (103), Code 1971, is  
18 amended by adding the following new section:

19 "Provisions of this chapter in conflict with the state build-  
20 ing code shall not apply where the state building code has been  
21 adopted or when the state building code applies throughout the  
22 state."

23 Sec. 24. Chapter one hundred thirty-five (135), Code 1971,  
24 is amended by adding the following new section:

25 "Provisions of this chapter in conflict with the state build-  
26 ing code shall not apply where the state building code has been  
27 adopted or when the state building code applies throughout the  
28 state."

29 Sec. 25. Chapter one hundred thirty-five B (135B), Code  
30 1971, is amended by adding the following new section:

31 "Provisions of this chapter in conflict with the state build-  
32 ing code shall not apply where the state building code has been  
33 adopted or when the state building code applies throughout the  
34 state."

35 Sec. 26. Chapter one hundred thirty-five C (135C), Code

1 1971, is amended by adding the following new section:

2 "Provisions of this chapter in conflict with the state build-  
3 ing code shall not apply where the state building code has been  
4 adopted or when the state building code applies throughout the  
5 state."

6 Sec. 27. Section one hundred sixty-seven point eleven  
7 (167.11), Code 1971, is amended by adding the following new  
8 paragraph:

9 "This section shall not apply where the state building code  
10 has been adopted or when the state building code applies through-  
11 out the state."

12 Sec. 28. Chapter one hundred seventy (170), Code 1971, is  
13 amended by adding the following new section:

14 "Provisions of this chapter in conflict with the state build-  
15 ing code shall not apply where the state building code has been  
16 adopted or when the state building code applies throughout the  
17 state."

18 Sec. 29. Section three hundred thirty-two point three (332.3),  
19 subsection twenty-two (22), Code 1971, is amended as follows:

20 22. ~~In counties having a population of over thirty thousand;~~  
21 ~~to~~ To adopt a building code and to provide for the regulation  
22 and inspection of all construction, major repairs and remodeling,  
23 and the installation of electrical, heating, ventilating, air  
24 conditioning, and plumbing fixtures, apparatus, and equipment  
25 and provide for the manner in which such regulations and inspec-  
26 tion shall be determined, established and enforced, and from  
27 time to time amended, supplemented or changed. However, no such  
28 regulation shall become effective until after a public hearing  
29 in relation thereto at which parties in interest and citizens  
30 shall have an opportunity to be heard. At least fifteen days  
31 notice of the time and place of such hearing shall be published  
32 in a paper of general circulation in such county. Upon compli-  
33 ance with the provisions of this chapter, the regulation shall  
34 become effective, the provisions of any other statute to the  
35 contrary notwithstanding. Such code shall not be construed to

1 apply within the limits of any incorporated city or town which  
2 has the power to adopt a building code under the provisions of  
3 section 368.9 or to farm houses or other farm buildings which  
4 are primarily adapted, by reason of nature and area, for use  
5 for agricultural purposes, while so used or while under con-  
6 struction for such use.

7 Sec. 30. Section three hundred sixty-six point seven (366.7),  
8 subsection seven (7), Code 1971, is amended by adding the follow-  
9 ing new paragraph:

10 "Provisions of this section in conflict with the state build-  
11 ing code shall not apply where the state building code has been  
12 adopted or when the state building code applies throughout the  
13 state."

14 Sec. 31. Chapter three hundred sixty-eight (368), Code 1971,  
15 is amended by adding the following new section:

16 "Provisions of this chapter in conflict with the state build-  
17 ing code shall not apply where the state building code has been  
18 adopted or when the state building code applies throughout the  
19 state."

20 Sec. 32. Chapter four hundred thirteen (413), Code 1971, is  
21 amended by adding the following new section:

22 "Provisions of this chapter in conflict with the state build-  
23 ing code shall not apply where the state building code has been  
24 adopted or when the state building code applies throughout the  
25 state."

26 Sec. 33. Chapter one hundred four A (104A), Code 1971, is  
27 repealed.

28 EXPLANATION

29 This bill provides for a state building code to be developed  
30 at the state level. Adoption of the building code is optional  
31 with governmental subdivisions. Upon adoption, the code would  
32 supersede existing statutory provisions and ordinances. A gov-  
33 ernmental subdivision may reject the code after it has been  
34 adopted, if one year's time has elapsed.

35 The bill also provides that the state building code will be

1 applicable to factory-built structures which includes mobile  
2 homes. The code provisions on factory-built structures will  
3 apply in all governmental subdivisions whether or not the code  
4 has been adopted.

5 The state building code will apply to state buildings.

6 Present code provisions will not be repealed. They will con-  
7 tinue to govern in governmental subdivisions which do not adopt  
8 the state code and will govern buildings constructed prior to  
9 the adoption of the state code, except when an existing struc-  
10 ture is being remodeled.

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