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**HOUSE BILL 2608**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Blake, Griffey, Van Werven, Chapman, Eslick, and Leavitt

AN ACT Relating to project review and approval under the state building code; amending RCW 19.27.015, 19.27.020, 19.27.060, 19.27A.015, and 19.27A.020; adding new sections to chapter 19.27 RCW; adding new sections to chapter 19.27A RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds the codes adopted under the state building code act in chapters 19.27 and 19.27A RCW are developed by multiple building code developers, which has resulted in conflicts, inconsistencies, and delays impacting the application of regulations and processes for approving alternate methods of construction, equipment, and devices. The legislature further finds that providing flexibility in building construction methods and uniformity in approval processes can result in efficient, resilient, and sustainable buildings, help local communities achieve their goals of increasing affordable housing, and ease code administration and enforcement, all of which benefits the safety and welfare of building owners, occupants, and the general public. Providing options for citizens to benefit from efficiencies provided by the approval of modern technical methods, devices, improvements, and innovations are in line with the governor's results Washington goal of improving nonelectrical energy efficiency of buildings and industrial processes to reduce greenhouse gas.

**Sec.**  RCW 19.27.015 and 2018 c 207 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public.

(2) "City" means a city or town.

(3) "Code official" means the officer or other designated authority charged with the administration and enforcement of the codes adopted under this chapter and chapter 19.27A RCW.

(4) "Commercial building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building not covered by a residential building permit.

((~~(4)~~)) (5) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than five thousand square feet in area, and that have a one-hour fire-resistive occupancy separation between units.

((~~(5)~~)) (6) "Residential building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building containing only dwelling units used for independent living of one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and structures accessory to dwelling units, such as detached garages and storage buildings.

((~~(6)~~)) (7) "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

**Sec.**  RCW 19.27.020 and 1985 c 360 s 6 are each amended to read as follows:

The purpose of this chapter is to promote the health, safety and welfare of the occupants or users of buildings and structures and the general public by the provision of building codes throughout the state. Accordingly, this chapter is designed to effectuate the following purposes, objectives, and standards:

(1) To require minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire and life safety.

(2) To require standards and requirements in terms of performance and nationally accepted standards.

(3) To permit the use of modern technical methods, devices and improvements.

(4) To eliminate restrictive, obsolete, conflicting, duplicating and unnecessary regulations and requirements which could unnecessarily increase construction costs or retard the use of new materials and methods of installation or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction.

(5) To provide for standards and specifications for making buildings and facilities accessible to and usable by ((~~physically disabled~~)) persons with physical disabilities.

(6) To consolidate within each authorized enforcement jurisdiction, the administration and enforcement of building codes.

(7) To create uniform inspection consistency for the laws, codes, and standards adopted under this chapter by requiring the approving jurisdiction to cite the section of law, code, or standard in inspection correction orders of noncompliance upon request of a permit applicant or of the applicant's agent, as specified in section 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

If a code official issues an inspection correction order of noncompliance or other similar order, the code official must, upon the request of a building permit applicant or applicant's agent, provide a citation to the specific section and subsection of the law, code, or standard on which the order was based.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

(1) Nothing in this chapter prohibits the code official of the local jurisdiction from approving a material, product, method of construction, design, or system if the code official of the jurisdiction finds that:

(a) The proposed design is satisfactory and complies with the intent of the provisions of the code or standard; and

(b) The material or method of construction offered is, for the purpose intended, not less than the equivalent of that prescribed in the adopted code or standard.

(2) All data submitted to validate and substantiate compliance are subject to final approval by the code official. Final decisions under this section must be based on objective findings of fact. The code official must provide a permit applicant written notification of final decisions under this section within the timelines in RCW 36.70B.070. If not approved, the written notification must clearly explain the reasons why the data submitted to validate and substantiate compliance was found insufficient for approval. A final order, decision, or determination by the code official may be appealed using the process created by the local jurisdiction such as an appointed board of appeals or appointed hearing officer.

(3) Nothing in this section prohibits the code official of the local jurisdiction from approving a material, product, method of construction, design, or system for an individual permitted project or the approval for use on future or subsequent projects.

**Sec.**  RCW 19.27.060 and 2018 c 302 s 2 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as amended and adopted by the state building code council as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in RCW 19.27.020, section 5 of this act, or the state building code except as provided in subsection (2) of this section.

(a) Except as provided in subsection (2) of this section, no amendment to a code enumerated in RCW 19.27.031 as amended and adopted by the state building code council that affects single-family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b).

(b) Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2) The legislative body of a county or city, in exercising the authority provided under subsection (1) of this section to amend the code enumerated in RCW 19.27.031(1)(b), may adopt amendments that eliminate any minimum gross floor area requirement for single-family detached dwellings or that provide a minimum gross floor area requirement below the minimum performance standards and objectives contained in the state building code.

(3) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

(4) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single-family or multifamily residential buildings. However, in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code. A governing body of a county or city may inspect facilities used for temporary storage and processing of agricultural commodities.

(5) No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not limit the authority of a county or city to adopt street, road, or access standards.

(6) The provisions of the state building code may be preempted by any city or county to the extent that the code provisions relating to the installation or use of sprinklers in jail cells conflict with the secure and humane operation of jails.

(7)(a) Effective one year after July 23, 1989, the governing bodies of counties and cities may adopt an ordinance or resolution to exempt from permit requirements certain construction or alteration of either group R, division 3, or group M, division 1 occupancies, or both, as defined in the uniform building code, 1988 edition, for which the total cost of fair market value of the construction or alteration does not exceed fifteen hundred dollars. The permit exemption shall not otherwise exempt the construction or alteration from the substantive standards of the codes enumerated in RCW 19.27.031, as amended and maintained by the state building code council under RCW 19.27.070.

(b) Prior to July 23, 1989, the state building code council shall adopt by rule, guidelines exempting from permit requirements certain construction and alteration activities under (a) of this subsection.

**Sec.**  RCW 19.27A.015 and 1990 c 2 s 2 are each amended to read as follows:

Except as provided in RCW 19.27A.020((~~(7)~~)) (6) and in section 10 of this act, the Washington state energy code for residential buildings shall be the maximum and minimum energy code for residential buildings in each city, town, and county and shall be enforced by each city, town, and county no later than July 1, 1991. ((~~The~~)) Except as provided in section 10 of this act, the Washington state energy code for nonresidential buildings shall be the minimum energy code for nonresidential buildings enforced by each city, town, and county.

**Sec.**  RCW 19.27A.020 and 2018 c 207 s 7 are each amended to read as follows:

(1) The state building code council in the department of enterprise services shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. One climate zone includes: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties. The other climate zone includes all other counties not listed in this subsection (3). The assignment of a county to a climate zone may not be changed by adoption of a model code or rule. Nothing in this section prohibits the council from adopting the same rules or standards for each climate zone.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) ((~~The~~)) Except as provided in section 10 of this act, the minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection and in section 10 of this act, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27A RCW to read as follows:

If a code official issues an inspection correction order of noncompliance or other similar order, the code official must, upon the request of a building permit applicant or applicant's agent, provide a citation to the specific section and subsection of the law, code, or standard on which the order was based.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27A RCW to read as follows:

(1) Nothing in this chapter prohibits the code official of the local jurisdiction from approving a material, product, method of construction, design, or system if the code official of the jurisdiction finds that:

(a) The proposed design is satisfactory and complies with the intent of the provisions of the state energy code; and

(b) The material or method of construction offered is, for the purpose intended, not less than the equivalent of that prescribed in the state energy code.

(2) All data submitted to validate and substantiate compliance are subject to final approval by the code official. Final decisions under this section must be based on objective findings of fact. The code official must provide a permit applicant written notification of final decisions under this section within the timelines in RCW 36.70B.070. If not approved, the written notification must clearly explain the reasons why the data submitted to validate and substantiate compliance was found insufficient for approval. A final order, decision, or determination by the code official may be appealed using the process created by the local jurisdiction such as an appointed board of appeals or appointed hearing officer.

(3) Nothing in this section prohibits the code official of the local jurisdiction from approving a material, product, method of construction, design, or system for an individual permitted project or the approval for use on future or subsequent projects.

(4) For the purposes of this chapter, "code official" has the same meaning as in RCW 19.27.015.

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