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**HOUSE BILL 1402**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Blake, Tharinger, Van Werven, Griffey, and Senn

AN ACT Relating to authorizing product certification agencies to certify building products and methods of construction, design, and systems as an alternate code compliance for modern technical methods, devices, and improvements; amending RCW 19.27.015, 19.27.020, and 19.27.060; adding a new section to chapter 19.27 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) "Accreditation body" means a body that conducts third-party attestation of product certification agencies that demonstrates competence to carry out specific requirements related to a product, process, system, person, or body.

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

((~~(3)~~)) (4) "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.

(5) "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)~~)) (6) "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)~~)) (7) "Product certification agency" means an entity that: (a) Is accredited, by an accreditation body, with the requirements of ISO/IEC 17065; and (b) conducts competent, consistent, and impartial attestations within its scope of accreditation that building products continuously comply with the requirements of the code, standard, or other criteria relevant to the product and regulatory programs.

(8) "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)~~)) (9) "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)(i) To foster innovation consistent with this section; and

(ii) To aid in demonstrating compliance with adopted codes by ensuring that materials, building products, methods of construction, designs, and systems receiving a listing or evaluation from a product certification agency is an acceptable method that demonstrates compliance with the requirements of the code or standard.

(8) To create uniform inspection consistency for the laws, codes, and standards adopted under this chapter by requiring the approving jurisdiction to reply and cite the section of law, code, or standard in inspection correction orders of noncompliance, when requested by the owner or the owner's agent.

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

(1) A product certification agency may certify building materials, products, methods of construction, designs, and systems for modern technical methods, devices, products, and improvements.

(2) The certification shall include a listing of the acceptance criteria referenced in the evaluation or listing report.

(3) Nothing in this section prohibits the code official of the local jurisdiction from approving a material, product, method of construction, design, or system that has not been submitted to a product certification agency. The material, product, method of construction, design, or system may be approved by the code official if the code official of the jurisdiction finds through other validation means 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.

(4) All evaluation and listing reports issued by a product certification agency, or other data submitted to validate and substantiate compliance, are subject to final approval by the code official. If an evaluation or listing report is not approved by a code official, the code official shall respond in writing consistent with the notification timelines as specified in RCW 36.70B.070 and shall specifically state the reasons why the evaluation report, listing report, other validation means, or data was not approved based on objective findings of fact.

(5) 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 (a) RCW 19.27.020; (b) section 4 of this act; or (c) 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.

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