

## RS 40:1730.21

### PART IV-A. STATE UNIFORM CONSTRUCTION CODE

#### §1730.21. Public policy for state uniform construction code

A. The public policy of Louisiana is to maintain reasonable standards of construction in buildings and other structures in the state consistent with the public health, safety, and welfare of its citizens.

B. This Part is enacted to enable the state of Louisiana to promulgate a state uniform construction code to govern the construction, reconstruction, alteration, and repair of buildings and other structures and the installation of mechanical devices and equipment therein. The state uniform construction code shall establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort, and security balanced with affordability for the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, and techniques. The state uniform construction code will encourage the use of construction materials of the greatest durability, lower long-term costs, and provide greater storm resistance.

C. To clarify the intent of the legislature and address questions which might arise or have arisen with respect to provisions of the nationally known codes which have been or are in place, only those portions or provisions of the nationally known building and safety codes which relate to building standards and safety are binding upon a state or local governmental entity or agency which adopts the building and safety codes authorized or required by this Part.

D. To further clarify the intent of the legislature, this Part continues to apply to a person who may act under authority of the Department of Public Safety and Corrections and that the allocation of inspection duties among local officials is not dictated by this Part but remains a matter for the local authority.

E. To secure these purposes, the Louisiana State Uniform Construction Code Council shall certify a person performing building codes enforcement including building officials, plans reviewers, and inspectors.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

#### §1730.22. Louisiana State Uniform Construction Code Council; membership; function of council; meeting requirements; immunity

A. The Louisiana State Uniform Construction Code Council, hereinafter referred to as the "council", is hereby created and shall consist of nineteen members. Each member of the council shall be appointed by the governor, subject to Senate confirmation, and shall serve at the pleasure of the governor. Each term for a member of the council shall be four years where a member shall serve no more than two consecutive terms. Each member of the council shall serve without compensation but shall be reimbursed for actual expenses and mileage incurred while attending council meetings in accordance with state travel regulations promulgated by the division of administration.

Reimbursement shall be limited to mileage and expenses for the attendance of twelve meetings per calendar year.

B. A vacancy must be filled in the manner of the original appointment.

C. The primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and accept all requests for amendments of the code, except the Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code]. Specifically, the council shall establish the requirements and process for the certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and determine if any amendments to the state uniform construction code are justified. If the council determines that an amendment is justified, it may enact such an amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, affordability, and welfare. The council shall adopt rules in accordance with the Administrative Procedure Act in order to implement the provisions of this Part.

D. The council shall elect from its members a chairman and vice chairman. The chairman shall serve as chairman for a maximum of four years from the date of his election. The council shall adopt regulations under the Administrative Procedure Act in order to implement the provisions of this Part. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three or more members of the council within fourteen days of such request. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven days before the meeting. Each meeting shall be open to the public and any official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to a vote. A majority of members of the council shall constitute a quorum.

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

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2007, No. 335, §1, eff. July 9, 2007; Acts 2008, No. 207, §1; Acts 2008, No. 484, §1; Acts 2008, No. 830, §1.

#### §1730.23. Enforcement of building codes by municipalities and parishes

A. Notwithstanding any other law to the contrary relating to the authority of local governments to enforce construction codes, all municipalities and parishes in this state shall enforce only the construction codes provided for in this Part. All municipalities and parishes shall use building code enforcement officers or certified third-party providers contracted by the municipality, parish, or regional planning commission to act in the capacity of a building code enforcement officer to enforce the provisions of this Part.

Enforcement procedures by building code enforcement officers or third-party providers acting in the capacity of a building code enforcement officer shall include examination or review of plans, drawings, or specifications; the conducting of inspections; and the issuance, denial, or revocation of permits. A building code enforcement officer, third-

party provider, or third-party provider contracted by a jurisdiction as provided for in R.S. 40:1730.24(A) shall not conduct plan review or inspections on a commercial or residential structure if such officer or provider owns any interest in the legal entity that constructed such commercial or residential structure or receives any compensation from the legal entity other than the fees that are charged for plan review or inspections. Nothing in this Subsection shall be construed to prevent a commercial or residential contractor or homeowner from using a third-party provider as provided for in R.S. 40:1730.24(B). Nothing in this Subsection shall be construed to prevent a commercial contractor or commercial owner from using the office of state fire marshal as a third-party provider as provided for in R.S. 40:1730.24(B) on commercial structures in any parish within the state with a population of less than forty thousand and whose boundaries lie completely north of the one hundred ten mile per hour wind line, as shown in the American Society of Civil Engineers (ASCE-7) basic wind speeds map published in the latest edition of the International Building Code.

B. Nothing in this Part shall conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction or the provisions of R.S. 51:912.21 et seq., as it relates to manufactured housing installation.

Further, it is the intent of the legislature that any service, renovation, repair, or warranty work performed on a manufactured home shall be handled under the appropriate federal standards governing manufactured housing construction or state standards governing installation, and all such work be under the jurisdiction of the Louisiana Manufactured Housing Commission. Additionally, the exemption for manufactured housing provided for in this Subsection shall extend to and include driveways, steps, decks, or other similar accessory structures or work, but shall not include any additional living area or other type of heated and cooled space outside of the original footprint of the manufactured home.

C. In connection with the construction of any building, structure, or other improvement to immovable property, neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee by a governmental enforcement agency as to durability or fitness, or as a warranty or guarantee by a governmental enforcement official or a third-party provider who contracts with a municipality or parish as provided for in R.S. 40:1730.24(A), that said building, structure, or other improvement to immovable property or any materials, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way. In the enforcement of any provision of a construction code provided for in this Part, or any regulations governed by R.S. 33:4771 et seq., the performance or non-performance of any procedure by a governmental enforcement agency, contract employee, or official shall be deemed to be a discretionary act and shall be subject to the provisions of R.S. 9:2798.1.

D.(1) Notwithstanding any provision of Title 33 of the Louisiana Revised Statutes of 1950 or any other law to the contrary, no municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a certified architect or engineer if the dwelling falls within the prescriptive standards of the latest edition of the International Residential Code or its referenced amendments as provided for in R.S. 40:1730.28.

(2) The provisions of this Section shall be effective for both the duration of the emergency wind and flood mitigation provisions as provided for in R.S. 40:1730.27 and after this Part becomes effective statewide as provided for in R.S. 40:1730.28(B).

E.(1) Upon receipt of the certificate of occupancy issued by a local building official or third-party provider for a new residential construction, a lender who provides a residential mortgage loan for the purchase of such new residential construction shall file a copy of the certificate of occupancy in the conveyance records of the parish where the new residential construction is located. Failure of the lender to file such document in the local conveyance records shall not invalidate the legal effects of any transaction related to that property, including but not limited to the construction, purchase, sale, or transfer of title of the new residential construction.

(2) The homeowner of the new residential construction shall provide the lender a copy of the certificate of occupancy.

(3) Any lender that files a copy of the certificate of occupancy in the local conveyance records pursuant to the provisions of this Subsection shall be entitled to assess a reasonable charge to the borrower for all costs associated with the filing of the certificate, not to exceed the amount charged by that parish for filing such documents.

(4) If the provisions of this Chapter cease to be enforced in a parish, the provisions of this Section shall become null and void in that parish.

F. Municipalities and parishes in areas where windblown debris storm shutters are required by the state uniform construction code may allow occupancy upon receipt of an affidavit from the property owner stating that the owner has ordered the shutters and will install the shutters upon receipt. The shutters shall be installed within ninety days of occupancy. During the ninety-day period, the owner shall notify the parish or municipality that the shutters have been installed and a final inspection by the parish or municipality shall be made to verify that the shutters were installed.

G. Any municipality or parish which issues a permit for construction pursuant to this Part shall provide a list of registered certified building inspectors to the applicant for the permit at the time the permit is issued.

H. A parish or municipality may accept determinations made by the state fire marshal as they pertain to life safety and fire protection as required in this Part.

Added by Acts 1975, No. 706, §1. Amended by Acts 1978, No. 786, §5, eff. July 17, 1978; Acts 1984, No. 356, §1; Acts 2003, No. 387, §1, eff. Jan. 1, 2004; Acts 2008, No. 375, §1; Acts 2008, No. 813, §1; Acts 2008, No. 830, §1; Acts 2011, No. 92, §1; Acts 2011, No. 391, §1.

#### §1730.24. Agreements with other governmental entities for provision of services; private agreements

A. Municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by this Part. In the event of the establishment of such an agreement, the maximum fees applicable to the issuance of permits and the enforcement of the code shall be established by the governing body of the municipality or parish. The council may assist in arranging for municipalities, parishes, or certified third-party providers to provide the services

required by this Part to other municipalities or parishes if a written request from the governing body of the municipality or parish is submitted to the council.

B. Commercial and residential contractors and homeowners who are excepted from the contractor licensing law under R.S. 37:2170 may establish agreements with certified third-party providers to conduct plans review and inspections and enforce the state uniform construction code. On and after January 1, 2007, a third-party provider shall meet the requirements imposed by the council for certificates of registration; however, beginning January 1, 2008, upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, a third-party provider who is a Louisiana licensed architect or engineer shall be granted a certificate of registration without certification by a recognized code organization. Once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state, and the council shall maintain a listing of all certified third-party providers.

C. Municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code shall not impose a fee for inspections not performed by the municipality or parish if a fee for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2006, 1<sup>st</sup> Ex. Sess., No. 11, §1, eff. Feb. 23, 2006; Acts 2007, No. 335, §1, eff. July 9, 2007; Acts 2008, No. 343, §1; Acts 2008, No. 830, §1; Acts 2011, No. 391, §1.

§1730.25. Appointment of building official or contractual arrangement for such services; affidavit for exemption

Each parish and municipality shall appoint a council-certified building official or contract with other governmental entities or third parties as authorized in R.S. 40:1730.24 of this Part so that the unincorporated area of the parish is under the jurisdiction of a council-certified building official. A parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality. No building official or certified building inspector shall be appointed if he has any interest in any legal entity that performs commercial or residential construction within the jurisdiction in which he would be appointed. Nothing in this Part shall prevent a municipality or parish from appointing and employing other council-certified personnel and assistants necessary to perform the required inspections and technical duties and prescribing fees for construction permits and inspections as provided by law.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2008, No. 830, §1.

§1730.26. Adoption and promulgation of certain building codes and standards as state uniform construction code; procedures

The council shall review, adopt, modify, and promulgate the building codes referenced in R.S. 40:1730.28 of this Part, provided that:

(1) The council shall promulgate rules and regulations to modify portions of the state uniform construction code referenced in R.S. 40:1730.28 of this Part under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Such rules and regulations may include, but not be limited to use of certain mapping systems regarding soil testing. The Senate and House committees on commerce shall receive notice of intent to modify portions of the state uniform construction code and shall have oversight of any such modifications under the provisions of the Administrative Procedure Act.

(2) The council shall review, evaluate, and update the state uniform construction code prior to the second regular legislative session after the release of the latest edition of the appropriate code as provided for in R.S. 40:1730.28. The council shall submit the updated state uniform construction code to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs for oversight and approval. Additionally, the council shall provide the members of each house of the legislature a summary of the major proposed changes to the International Residential Code at the time of submission to the oversight committees.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2007, No. 335, §1, eff. July 9, 2007; Acts 2008, No. 484, §1; Acts 2009, No. 501, §1.

#### §1730.27. Adoption and enforcement of emergency wind and flood mitigation requirements

A. The wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified in R.S. 40:1730.28(A)(3), shall apply within the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

B. Emergency wind and flood building requirements adopted in this Section shall remain in force until January 1, 2007.

C. Except as otherwise provided herein, the emergency wind and flood mitigation requirements adopted by this Section shall be enforced pursuant to R.S. 40:1730.23 and 1730.24 of this Part. If municipalities and parishes are unable to enforce the emergency wind and flood mitigation requirements prescribed in this Section on the effective dates provided for in Subsection D of this Section, the Louisiana Department of Public Safety and Corrections shall enforce them as long as they remain in effect.

D. The provisions of this Section shall go into effect thirty days from November 29, 2005, for parishes and municipalities that have code enforcement procedures in place on November 29, 2005. For those parishes and municipalities without code enforcement procedures, the provisions of this Section shall be applied no later than ninety days from November 29, 2005.

E. The Department of Public Safety and Corrections, office of state fire marshal, may establish contract agreements with parishes, municipalities, and third-party providers in order to provide enforcement of this Section.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2006, No. 769, §1, eff. June 30, 2006.

#### §1730.28. Mandatory adoption of certain nationally recognized codes and standards as the state uniform construction code; adoption by reference

A. Except as provided in Subsection C of this Section, the council shall evaluate, adopt, and amend only the latest editions of the following as the state uniform construction code:

(1) International Building Code, not including Parts I-Administrative, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(2) International Existing Building Code, not including Parts I-Administrative, and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(3)(a) International Residential Code, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which shall not be adopted by the council and may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code, 2003 edition:

(i) Amendment of R301.2.1.1 (Design Criteria).

(ii) Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added.

(iii) Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added.

(iv) Item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

(b) For purposes of this Paragraph, an extensive alteration shall mean an alteration when the total area of all the work areas included in the alteration exceeds fifty percent of the area of the dwelling unit.

(c) For purposes of this Paragraph, "reconstruction" and "alteration" shall have the same meaning as such terms are defined in Appendix J of the 2006 edition of the International Residential Code. For purposes of this Paragraph, "addition" shall have the same meaning as such term is defined in Part II of the 2006 edition of the International Residential Code.

(d) The council shall not adopt any part of the International Residential Code that is excluded by Subparagraph (A)(3)(a) of this Section. Further, any rule that adopts or has been adopted to add an excluded part of the code shall be deemed invalid.

(e) Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6.

(f) The council shall not adopt or enforce any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

(g) Factory built homes shall be inspected in accordance with the codes in effect for the locality where the home will be ultimately sited, on the date construction begins in the factory.

(4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(5) The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

(6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) National Electric Code.

B. The initial code adopted by the council under the provisions of this Part shall become effective on January 1, 2007.

C. For purposes of Paragraph (A)(3) of this Section, the 2006 edition of the International Residential Code is hereby adopted and amended to include Section R301.2.1.1 of the 2003 edition of the International Residential Code in lieu of Section R301.2.1.1 of the 2006 edition. The code adopted and amended above in this Subsection shall remain in effect until the 2009 edition of the International Residential Code is published, at which time such edition of the code shall be adopted by the council as provided in Subparagraph (A)(3)(a) of this Section. Thereafter, the council shall evaluate and adopt the latest edition of the International Residential Code as provided in Subparagraph (A)(3)(a) of this Section.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2006, No. 458, §1, eff. June 15, 2006; Acts 2007, No. 335, §1, eff. July 9, 2007; Acts 2008, No. 484, §1; Acts 2010, No. 685, §1, eff. June 29, 2010.

#### §1730.29. Regulation of construction or improvement of industrial facilities

Excluding the applicable requirements of the Louisiana State Plumbing Code, the provisions of this Part shall not apply to the construction or improvement of the following types of industrial facilities that are engaged in activities defined or classified under one



or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
  - (2) 321 wood products manufacturing.
  - (3) 322 paper manufacturing.
  - (4) 324 petroleum and coal products manufacturing.
  - (5) 325 chemical manufacturing.
  - (6) 326 plastics and rubber products manufacturing.
  - (7) 331 primary metals manufacturing.
  - (8) 562211/562212 hazardous and solid waste landfills.
  - (9) 422710 bulk stations and materials.
  - (10) 486110 crude oil pipelines.
  - (11) 486910 refined petroleum products pipelines.
  - (12) 486210 natural gas pipelines.
  - (13) 486990 other pipelines.
  - (14) 211112 natural gas processing plants.
- Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.30. Regulation of construction or improvement of farm, recreational, and residential accessory structures; authority to issue building permits

A.(1) For purposes of this Section, "farm structure" means a structure which is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including but not limited to barns, sheds, and poultry houses but not public livestock areas. For purposes of this Section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

(2) For purposes of this Section, "residential accessory structure" means a structure not exceeding five hundred square feet in footprint, and not attached to a residence that is used as an accessory to the primary use of the residence, and not constructed in regions where the basic wind speeds from Figure R301.2(4) of the International Residential Code, as promulgated by the council, equal or exceed one hundred miles per hour, or forty-five meters per second, in hurricane-prone regions or one hundred ten miles per hour, or forty-nine meters per second, elsewhere.

B. The governing authority of a parish or municipality shall not enforce that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp or residential accessory structure. However, a municipality with a population in excess of forty-five thousand according the latest federal decennial census may enforce that portion of the state uniform construction code which regulates the construction or improvement of a residential accessory structure.

C. For residential construction, the standards published by the Federal Emergency Management Agency for the National Flood Insurance Program shall apply.

D. The provisions of this Section shall not affect the power of the governing authority of a parish or municipality to issue building permits before the construction or improvement of a farm or private outdoor recreational structure.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2008, No. 830, §1.

§1730.31. Mandamus and injunctive relief for violation of code or regulation; penalties

For a violation of the building codes or regulations adopted pursuant to this Part, the local building official may enjoin further construction of the project as provided by local ordinance. The municipal, district, or parish attorney, attorney general, or other appropriate authorities of a political subdivision, in addition to other remedies, may apply for injunctive relief, mandamus, or other appropriate proceeding in the district court of the parish where the violation occurred.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.32. Imposition of fees

Nothing in this Part shall prohibit the governing authority of a parish or municipality from imposing fees necessary to implement and continue the provisions required by this Part as provided by law.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.33. Codes applicable to building inspections

Buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit, except that:

(1) If no date of issuance of original building permit can be found, the date of submission of the completed application to the local authority must be used.

(2) If no date of application for, or date of issuance of, building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.34. Responsibility of Louisiana State Construction Code Council for registration of building codes enforcement officers; record of hearings and proceedings; register of applications for certificates of registration

A. The Louisiana State Uniform Construction Code Council is responsible for the registration of building codes enforcement officers pursuant to this Part. When used in this Part "building codes enforcement officer" means a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

B. The council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council. The council and its members shall be subject to the Open Meetings Law, the Public Records Law, and the Code of Governmental Ethics, provided however, that when any member of the council has a real or perceived conflict of interest upon an issue before the council, he shall recuse himself from participation in that issue by providing a verbal explanation of the

real or perceived conflict to the council. The Department of Public Safety and Corrections shall employ and supervise personnel necessary for the administration of this Part. The council may promulgate regulations under the provisions of the Administrative Procedure Act for the proper enforcement of this Part.

C. The council shall keep a record of its hearings and proceedings and a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish at least annually the applications in the register which are approved. Applicants and registrants shall notify the council of changes in required information within ten days of a change.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.35. Application and issuance of certificates of registration; provisional certificates of registration; registration

A. A person desiring to be registered as a building code enforcement officer as required by this Part shall apply to the council for a certificate of registration.

B. An applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency that is prescribed by the council in the general or special capacity in which he desires to be registered; however, beginning August 1, 2008, and upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, an employee of the state of Louisiana or one of its political subdivisions who is a Louisiana licensed architect or engineer shall be granted a certificate of registration without certification by a recognized building code organization or testing agency. Special certificates of registration authorize the registrant to practice in the named specialty only. General certificates of registration are not restricted. The council or its designated representatives shall review the guidelines employed by the organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with this Part.

C.(1) Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers employed in code enforcement on January 1, 2007, only for the position and locality held at the time of registration pursuant to this Section. Such provisional certificates of registration are valid for the time period stipulated by regulation of the council for each registration classification from the date of issuance. The certificates of registration provided for in this Paragraph may not be renewed except as provided in Subsection B of this Section.

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(2) Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers who have been employed in building code enforcement for at least ten years on January 1, 2007, only for the position and locality held at the time of registration pursuant to this Section. Building code enforcement officers who are registered pursuant to this Paragraph shall comply with all continuing education requirements established by the council.

D. Upon initial employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a code enforcement officer who is certified by the International Code Council. Such provisional certificate of registration is valid for the time period stipulated by regulation of the council for each registration classification from the date of issuance. The provisional certificate of registration may not be renewed except as provided in Subsection B of this Section.

E. The council shall have the authority to suspend or revoke certificates of registration upon any violation of this Part after notice and a proper hearing. The council shall implement rules for such proceedings under the Administrative Procedure Act.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2006, No. 769, §1, eff. June 30, 2006; Acts 2008, No. 830, §1; Acts 2009, No. 325, §1.

#### §1730.36. Registration required to practice as code enforcement officer; violations; penalty

On or after January 1, 2007, no person may practice as a code enforcement officer in this state unless registered as provided in this Part. A person violating the provisions of this Part shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred dollars or imprisoned not more than thirty days. Each day the violation continues is a separate offense.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005; Acts 2006, No. 769, §1, eff. June 30, 2006.

#### §1730.37. Injunction to restrain person from violating this Part

If the council has reason to believe that a person is violating or intends to violate a provision of this Part, in addition to other remedies, it may order the person immediately to refrain from the conduct. The council may apply to the district court of the parish for an injunction restraining the person from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or other order pursuant to this Part.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

#### §1730.38. Duration of certificates; renewal; continuing education requirements; funding

A certificate of registration issued under R.S. 40:1730.35(B) is valid for one year and expires on the last day of the month of issuance. Renewal of all registrations must be based upon a determination by the council of the applicant's participation in council-approved continuing education programs. The council must promulgate regulations setting forth the continuing education requirements for building code enforcement officers. A person failing to make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants under R.S. 40:1730.35(B) and may not practice until registered in accordance with this Part.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.39. Powers of state fire marshal

A. The state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in R.S. 40:1730.24 of this Part.

B. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, handicapped accessibility, and high rise laws of this state, the enforcement of which are his statutory and regulatory responsibility.

C. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in R.S. 40:1730.41 et seq.

Acts 2005, 1st Ex. Sess., No. 12, §2, eff. Nov. 29, 2005.

§1730.40. Municipalities and parishes; home rule charter

A. Nothing in this Part shall conflict with the provisions of Article VI, Sections 4 and 6 of the Constitution of Louisiana pertaining to the powers, functions, and duties of local governments or the structure and organization or the particular distribution and redistribution of the powers and functions of any local government operating under a home rule charter, or otherwise prohibit a local government from adopting ordinances for the local administration of the construction code provided for in this Part or for any procedures in connection with the local enforcement of the provisions of this Part.

B. In the enforcement of any provision of the construction code provided for in this Part, if any provision of this Part conflicts with the provisions of a home rule charter pertaining to the powers, functions, and duties of local governments or the structure and organization or the particular distribution and redistribution of the powers and functions of such local government, the provisions of such home rule charter shall supersede the conflicting provisions of this Part.

C. Nothing in this Section shall allow any local government to avoid enforcement or otherwise amend any of the mandatory construction code provisions required by R.S. 40:1730.28 or prohibit commercial and residential contractors or homeowners from using certified third-party providers pursuant to R.S. 40:1730.24.

Acts 2008, No. 306, §1, eff. June 17, 2008.