

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 546

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE ENERGY CONSERVATION CODE; AMENDING TITLE 39, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 97, TITLE 39, IDAHO CODE, TO PROVIDE
3 FOR THE ADOPTION OF THE IDAHO ENERGY CONSERVATION CODE, TO PROVIDE FOR
4 APPROVAL OF THE IDAHO ENERGY CONSERVATION CODE BY THE IDAHO BUILDING
5 CODE BOARD AND THE LEGISLATURE, AND TO PROVIDE FOR PREEMPTION; AMENDING
6 SECTION 39-4109, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPA-
7 TIONAL AND PROFESSIONAL LICENSES, TO PROVIDE FOR THE ADOPTION OF THE
8 2018 INTERNATIONAL BUILDING CODE, THE 2018 INTERNATIONAL RESIDENTIAL
9 CODE, AND THE IDAHO ENERGY CONSERVATION CODE AND TO REVISE PROVISIONS
10 REGARDING APPLICATION OF CODES; AMENDING SECTION 39-4116, IDAHO CODE,
11 TO PROVIDE FOR THE ADOPTION OF THE 2018 INTERNATIONAL BUILDING CODE, THE
12 2018 INTERNATIONAL RESIDENTIAL CODE, AND THE IDAHO ENERGY CONSERVATION
13 CODE, TO REVISE PROVISIONS REGARDING ADOPTION OF CERTAIN CODES, AND TO
14 MAKE TECHNICAL CORRECTIONS; PROVIDING LEGISLATIVE INTENT; AND DECLAR-
15 ING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
20 ter 97, Title 39, Idaho Code, and to read as follows:

21 CHAPTER 97
22 IDAHO ENERGY CONSERVATION CODE

23 39-9701. IDAHO ENERGY CONSERVATION CODE. (1) On and after July 1,
24 2022, the Idaho state energy code shall be the 2018 international energy con-
25 servation code, as amended, revised, or modified by the Idaho building code
26 board and approved by the legislature. The international energy conserva-
27 tion code, together with such amendments, revisions, or modifications as
28 approved by the Idaho building code board and the legislature shall collec-
29 tively constitute and be named the Idaho energy conservation code and shall
30 be deemed approved by the Idaho building code board and the legislature.

31 (2) The provisions of this chapter preempt, eliminate, and prohibit any
32 cities, counties, incorporated or unincorporated areas, special use dis-
33 tricts, or any other local governmental entities of any kind from adopting
34 energy code or related requirements that differ from or are more extensive
35 than the requirements of the Idaho energy conservation code as provided for
36 in this chapter.

37 SECTION 2. That Section 39-4109, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 39-4109. APPLICATION OF CODES. (1) The following codes are hereby
40 adopted for the state of Idaho division of ~~building safety~~ occupational and

1 professional licenses and shall ~~only~~ be applied by local governments only as
2 prescribed by section 39-4116, Idaho Code:

3 (a) ~~The 2006~~ 2018 International Building Code ~~shall be in effect, un-~~
4 ~~til such time as a subsequent version is adopted by the Idaho building~~
5 ~~code board, at which time the subsequent versions of the International~~
6 ~~Building Code as adopted and~~ as amended by the Idaho building code board
7 through the negotiated rulemaking process as established in section
8 67-5221, Idaho Code, and as further provided in subsection (54) of this
9 section and in accordance with subsections (2) and (3) of this section
10 shall be in effect:

11 (i) Including appendices thereto pertaining to building accessi-
12 bility;

13 (ii) Excluding the incorporated electrical codes, mechanical
14 code, fuel gas code, plumbing codes, fire codes or property main-
15 tenance codes other than specifically referenced subjects or
16 sections of the International Fire Code; and

17 (iii) Including the 2018 incorporated Idaho residential code,
18 parts I, II, III and IX; 2018 Idaho energy conservation code
19 pursuant to section 39-9701, Idaho Code; and rules promulgated by
20 the board to provide equivalency with the provisions of the Amer-
21 icans with disabilities act accessibility guidelines and the fair
22 housing act accessibility guidelines ~~shall be included.;~~

23 (b) The version of the 2018 International Residential Code ~~adopted by~~
24 ~~the Idaho building code board,~~ together with the amendments, revisions
25 or modifications adopted by the Idaho building code board through the
26 negotiated rulemaking process, except for parts IV, V, VI, VII and VIII,
27 as they pertain to energy conservation, mechanical, fuel gas, plumb-
28 ing and electrical requirements, shall collectively constitute and be
29 named the 2018 Idaho residential code. ~~The Idaho residential code shall~~
30 ~~be in effect until such time as a subsequent version is adopted by the~~
31 ~~Idaho building code board, at which time the subsequent version of the~~
32 ~~Idaho residential code, as adopted and amended by the Idaho building~~
33 ~~code board through the negotiated rulemaking process provided in this~~
34 ~~section, shall be in effect. Any amendments, revisions or modifica-~~
35 ~~tions made to the~~ 2018 Idaho residential code by the board shall be made
36 by administrative rules promulgated by the board; and

37 (c) The version of the International Energy Conservation Code adopted
38 by the Idaho building code board, together with the amendments, dele-
39 tions or additions adopted by the Idaho building code board through the
40 negotiated rulemaking process provided in this chapter, shall be in
41 effect. The International Energy Conservation Code, together with any
42 amendments, revisions or modifications made by the board, shall col-
43 lectively constitute and be named the Idaho energy conservation code.
44 The Idaho energy conservation code shall be in effect until such time
45 as a subsequent version is adopted by the Idaho building code board,
46 at which time the subsequent versions of the Idaho energy conservation
47 code, as adopted and amended by the Idaho building code board through
48 the negotiated rulemaking process provided in this section, shall be in
49 effect. Any amendments, revisions or modifications made to the Idaho

1 ~~energy conservation code by the board shall be made by administrative~~
 2 ~~rules promulgated by the board; and~~

3 ~~(d) The 2006 2018 International Existing Building Code as published by~~
 4 ~~the International Code Council shall be in effect until such time as a~~
 5 ~~subsequent version is adopted by the Idaho building code board, at which~~
 6 ~~time the subsequent versions of the International Existing Building~~
 7 ~~Code, as adopted and amended by the Idaho building code board through~~
 8 ~~the negotiated rulemaking process provided in this section, shall be in~~
 9 ~~effect.~~

10 (2) No amendments to the accessibility guidelines shall be made by the
 11 Idaho building code board that provide for lower standards of accessibility
 12 than those published by the International Code Council.

13 (3) No amendments to the 2018 Idaho residential building code shall be
 14 made by the Idaho building code board that provide for standards that are
 15 more restrictive than those published by the International Code Council.

16 (4) ~~Any edition of the building codes adopted by the board will take ef-~~
 17 ~~fect on January 1 of the year following its adoption.~~

18 ~~(5) In addition to the negotiated rulemaking process set forth in sec-~~
 19 ~~tion 67-5221, Idaho Code, the board shall conduct a minimum of two (2) public~~
 20 ~~hearings, not less than sixty (60) days apart. Express written notice of~~
 21 ~~such public hearings shall be given by the board to each of the following en-~~
 22 ~~tities not less than five (5) days prior to such hearing: associated general~~
 23 ~~contractors of America, associated builders and contractors, association~~
 24 ~~of Idaho cities, Idaho association of building officials, Idaho association~~
 25 ~~of counties, Idaho association of REALTORS®, Idaho building contractors~~
 26 ~~association, American institute of architects Idaho chapter, Idaho fire~~
 27 ~~chiefs association, Idaho society of professional engineers, Idaho state~~
 28 ~~independent living council, southwest Idaho building trades, Idaho building~~
 29 ~~trades, and any other entity that, through electronic or written communica-~~
 30 ~~tion received by the administrator not less than twenty (20) days prior to~~
 31 ~~such scheduled meeting, requests written notification of such public hear-~~
 32 ~~ings.~~

33 SECTION 3. That Section 39-4116, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 39-4116. LOCAL GOVERNMENT ADOPTION AND ENFORCEMENT OF BUILDING
 36 CODES. (1) Local governments enforcing building codes shall do so only in
 37 compliance with the provisions of this section. Local governments that have
 38 not previously instituted and implemented a code enforcement program prior
 39 to the effective date of this act may elect to implement a building code
 40 enforcement program by passing an ordinance evidencing the intent to do so.
 41 Local governments may contract with a public or private entity to administer
 42 their building code enforcement program.

43 (2) Local governments that issue building permits and perform build-
 44 ing code enforcement activities shall, by ordinance effective January 1 of
 45 the year following the adoption by the Idaho building code board, adopt the
 46 following codes as published by the International Code Council together
 47 with any amendments or revisions set forth in section 39-4109, Idaho Code,
 48 ~~including subsequent versions of the International Building Code as adopted~~

1 ~~and amended by the Idaho building code board through the negotiated rulemak-~~
 2 ~~ing process or as provided in this chapter:~~

- 3 (a) 2018 International Building Code, including all rules promulgated
 4 by the board to provide equivalency with the provisions of the Americans
 5 with disabilities act accessibility guidelines and the federal fair
 6 housing act accessibility guidelines;
 7 (b) 2018 Idaho residential code, parts I-III and IX; and
 8 (c) 2018 Idaho energy conservation code pursuant to chapter 97, title
 9 39, Idaho Code.

10 Local governments are not required by this chapter to adopt the other refer-
 11 enced codes in the International Building Code. Local jurisdictions shall
 12 not adopt provisions, chapters, sections or parts of subsequent versions
 13 of the International Residential Code or residential provisions of the
 14 International Energy Conservation Code, or subsequent versions in their
 15 entirety, that have not been adopted ~~by the Idaho building code board in~~
 16 section 39-4109, Idaho Code, except as provided in subsection (4) of this
 17 section.

18 (3) All single-family homes and multiple-family dwellings up to two
 19 (2) units are hereby exempted from the provisions of the International Fire
 20 Code, the International Building Code and the Idaho residential code that
 21 require such dwellings to have automatic fire sprinkler systems installed.
 22 Nothing in this section shall prevent any person from voluntarily installing
 23 an automatic fire sprinkler system in any residential dwelling.

24 ~~(4) Except as provided in this subsection, local governments may amend~~
 25 ~~by ordinance the adopted codes or provisions of referenced codes to reflect~~
 26 ~~local concerns, provided such amendments establish at least an equivalent~~
 27 ~~level of protection to that of the adopted building code. A local jurisdic-~~
 28 ~~tion shall not have the authority to amend any accessibility provision pur-~~
 29 ~~suant to section 39-4109, Idaho Code, except as provided in this subsection.~~
 30 Local governments may amend by ordinance as provided in this subsection.

31 (a) A local jurisdiction shall not have the authority to amend any ac-
 32 cessibility provision pursuant to section 39-4109, Idaho Code.

33 (b) A local jurisdiction shall not adopt any provision, chapter, sec-
 34 tion or part of the International Residential Code or residential pro-
 35 visions of the International Energy Conservation Code, or subsequent
 36 versions in their entirety, that have not been adopted or that have been
 37 expressly rejected or exempted from the adopted version of those codes
 38 ~~by the Idaho building code board through the negotiated rulemaking~~
 39 ~~process as provided in section 39-4109, Idaho Code.~~

40 (c) Local jurisdictions may amend by ordinance the following provi-
 41 sions of the Idaho residential code to reflect local concerns:

- 42 (i) Part I, Administrative;
 43 (ii) Part II, Definitions;
 44 (iii) Part III, Building Planning and Construction, Section R 301,
 45 Design Criteria; and
 46 (iv) Part IX, Appendices.

47 ~~(d) Local jurisdictions may amend by ordinance the following provi-~~
 48 ~~sions of the Idaho energy conservation code to reflect local concerns:~~

- 49 ~~(i) Chapter 1, Scope and Application; and~~
 50 ~~(ii) Chapter 2, Definitions.~~

1 ~~(e)~~ Local jurisdictions may amend the remainder of Part III of the 2018
2 Idaho residential code if they find that good cause for building or life
3 safety exists for such an amendment to such codes and that such amend-
4 ment is reasonably necessary. Amendments shall be adopted by ordinance
5 in accordance with the provisions of chapter 9, title 50, Idaho Code, or
6 chapter 7, title 31, Idaho Code, and provided further that such local
7 jurisdiction shall conduct a public hearing and, provided further, that
8 notice of the time and place of the public hearing shall be published
9 in the official newspaper or paper of general circulation within the
10 jurisdiction and written notice of each ~~of~~ such public hearing and the
11 proposed language shall be given by the local jurisdiction to the lo-
12 cal chapters of the entities identified in section 39-4109 (54), Idaho
13 Code, not less than thirty (30) days prior to such hearing. In the event
14 that there are no local chapters of such entities identified in section
15 39-4109 (54), Idaho Code, within the local jurisdiction holding the
16 hearings, the notice shall be provided to the state associations of the
17 respective entities.

18 (5) Local governments shall exempt agricultural buildings from the re-
19 quirements of the codes enumerated in this chapter and the rules promulgated
20 by the board. A county may issue permits for farm buildings to assure com-
21 pliance with road setbacks and utility easements, provided that the cost for
22 such permits shall not exceed the actual cost to the county of issuing the
23 permits.

24 (6) Permits shall be governed by the laws in effect at the time the per-
25 mit application is received.

26 (7) The division shall retain jurisdiction for in-plant inspections
27 and installation standards for manufactured or mobile homes and for in-plant
28 inspections and enforcement of construction standards for modular buildings
29 and commercial coaches.

30 SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature
31 that notwithstanding the provisions of chapter 52, title 67, Idaho Code,
32 any rules, including temporary rules, promulgated pursuant to this act must
33 be approved by concurrent resolution during the next succeeding regular
34 session of the Legislature, and in the case of a temporary rule, if not so
35 approved, the rule shall expire at the end of said succeeding session and
36 cannot be re-promulgated without going through the negotiated rulemaking
37 process.

38 SECTION 5. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2022.