

TITLE 39
HEALTH AND SAFETY

CHAPTER 41
IDAHO BUILDING CODE ACT

39-4101. LEGISLATIVE FINDING AND INTENT. (1) Uniformity of building codes and uniformity in procedures for enforcing building safety codes throughout the state are matters of statewide concern and interest, in that uniformity would enhance elimination of obsolete, restricting, 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.

(2) It is the intent of the legislature to:

(a) Promote the health, safety and welfare of the occupants or users of buildings and structures subject to this chapter;

(b) Require minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire safety, life safety and accessibility for those with disabilities;

(c) Establish, for jurisdictions enforcing building codes pursuant to this chapter, minimum standards and requirements in terms of performance, energy efficiency, effect upon construction costs and consistency with nationally accepted standards;

(d) Permit the use of modern technical methods, devices and improvements; and

(e) Clarify and establish roles of the various jurisdictions subject to this chapter.

[39-4101, added 1975, ch. 180, sec. 2, p. 486; am. 1983, ch. 153, sec. 1, p. 407; am. 2000, ch. 465, sec. 1, p. 1439; am. 2002, ch. 345, sec. 3, p. 965.]

39-4102. SHORT TITLE. This chapter shall be known as "The Idaho Building Code Act."

[39-4102, added 1975, ch. 180, sec. 2, p. 486; am. 2002, ch. 345, sec. 4, p. 965.]

39-4103. SCOPE -- EXEMPTIONS. (1) This chapter authorizes the state division of building safety and local governments to adopt and enforce building codes pursuant to the provisions of this chapter.

(2) All buildings and other facilities owned by any state government agency or entity, including those owned, constructed or financed by the Idaho state building authority, shall conform to the codes adopted in this chapter, chapter 2, title 41, Idaho Code, chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, and shall be subject to the jurisdiction of the state division of building safety and the state fire marshal for purposes of all plan reviews, permitting and inspections. In performing such plan reviews, permitting and inspections, the division of building safety and the state fire marshal shall route building plans to affected local government agencies, and shall take into consideration local government comments and ordinances and shall promptly

notify the local jurisdictions of actions taken and the reasons therefor, and transmit to the local jurisdictions copies of final building plans.

(3) All buildings and other facilities owned by anyone other than state government agencies or entities which are constructed or renovated specifically for use or occupancy by any state agency or entity shall conform to all state adopted codes and standards. Nothing in this subsection shall limit the authority of local governments to issue permits, review plans and provide a full range of building code enforcement activities for such buildings.

(4) The following are exempt from the provisions of this chapter:

(a) Equipment used primarily for industrial chemical process purposes and for mineral extraction and mineral processing purposes. This exemption shall not include the erection and fabrication of new boilers, pressure vessels and other equipment as required to condition the building for personnel comfort and safety. Equipment in this regard shall mean and shall be limited to facilities or installations for heating, ventilating, air conditioning, refrigerating equipment, elevators, dumbwaiters, escalators, and boilers and pressure vessels associated with building heating systems.

(b) Modular buildings as defined in section 39-4301, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in chapter 43, title 39, Idaho Code.

[39-4103, added 1975, ch. 180, sec. 2, p. 486; am. 1988, ch. 264, sec. 13, p. 530; am. 2002, ch. 345, sec. 5, p. 966; am. 2003, ch. 256, sec. 1, p. 663; am. 2004, ch. 250, sec. 1, p. 716; am. 2004, ch. 272, sec. 1, p. 758; am. 2007, ch. 252, sec. 1, p. 737.]

39-4104. ENFORCEMENT OF LAW. The administrator of the division of building safety shall enforce the provisions of this chapter that apply to the state. Local governments that adopt building codes shall enforce all of the provisions of this chapter that govern application by local governments.

[39-4104, added 1975, ch. 180, sec. 2, p. 486; am. 1996, ch. 421, sec. 26, p. 1423; am. 2002, ch. 345, sec. 6, p. 966; am. 2004, ch. 272, sec. 2, p. 759.]

39-4105. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning. Where terms are not defined in this chapter and are defined in the currently adopted International Building Code published by the International Code Council, such terms shall have the meanings ascribed to them in that code:

(1) "Administrator" means the administrator of the division of building safety for the state of Idaho.

(2) "Board" means the Idaho building code board, herein created.

(3) "Building inspector" means a person who inspects buildings or structures for compliance with the provisions of this chapter.

(4) "Construction" means the erection, fabrication, reconstruction, demolition, alteration, conversion, or repair of a building, or the installation of equipment therein normally a part of the structure.

(5) "Division" means the state of Idaho division of building safety.

(6) "International Fire Code" means the International Fire Code as published by the International Code Council.

(7) "Local government" means any city or county of this state.

(8) "Manufactured home" means a structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. section 5401 et seq.

(9) "Mobile home" means a factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

(10) "Telecommunications facilities" means all wires, cables, equipment, apparatus or other installations necessary to furnish service, by which there is accomplished or may be accomplished, the sending or receiving of information, data, message writing signs, signals, pictures, and sounds of all kinds, by aid of such wires, cables, equipment, apparatus or other installations, but shall not include the habitable structure in which such telecommunications facilities are housed.

[39-4105, added 1975, ch. 180, sec. 2, p. 486; am. 1976, ch. 129, sec. 1, p. 488; am. 1983, ch. 153, sec. 2, p. 408; am. 1986, ch. 30, sec. 1, p. 85; am. 1992, ch. 197, sec. 1, p. 609; am. 1995, ch. 267, sec. 9, p. 859; am. 1996, ch. 421, sec. 27, p. 1423; am. 2002, ch. 345, sec. 7, p. 966; am. 2004, ch. 250, sec. 2, p. 717; am. 2007, ch. 252, sec. 2, p. 738.]

39-4106. IDAHO BUILDING CODE BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code board is established within the division as an appeals, code adoption and rulemaking board, to be appointed by the governor, and shall consist of ten (10) members: one (1) member of the general public; one (1) local fire official; one (1) licensed engineer; one (1) licensed architect; two (2) local building officials, one (1) from a county and one (1) from a city; two (2) building contractors, one (1) residential contractor who is an active member of the Idaho building contractors association with construction knowledge based primarily on a work history of buildings regulated by the International Residential Code, and one (1) commercial contractor who is an active member of either the associated builders and contractors or the associated general contractors of America with construction knowledge based primarily on a work history of buildings regulated by the International Building Code; one (1) representative of the modular building industry; and one (1) individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for terms of

four (4) years and until their successor has been appointed. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the currently appointed members of the board shall constitute a quorum.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(n), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the administrator, chairman, or at the request of four (4) members of the board, provided that the board shall meet at least biannually.

[39-4106, added 1975, ch. 180, sec. 2, p. 486; am. 1980, ch. 247, sec. 39, p. 611; am. 1983, ch. 153, sec. 3, p. 410; am. 1986, ch. 304, sec. 1, p. 755; am. 1988, ch. 264, sec. 14, p. 531; am. 1995, ch. 267, sec. 10, p. 861; am. 2000, ch. 465, sec. 2, p. 1440; am. 2001, ch. 151, sec. 1, p. 547; am. 2002, ch. 345, sec. 8, p. 969; am. 2009, ch. 173, sec. 1, p. 551; am. 2012, ch. 36, sec. 1, p. 107.]

39-4107. POWERS AND DUTIES. (1) The board shall continually study the operation of adopted codes, standards and rules relating to the construction of buildings or facilities under the jurisdiction of the division to ascertain their effect upon the public safety and shall support an ongoing effort to promote the uniform adoption, application and interpretation of safety, accessibility and building codes statewide. The board shall have the authority to adopt and enforce the codes specified in section 39-4109, Idaho Code, or later editions of such codes, and to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

(2) The board shall function as a board of appeals for the division as prescribed in the adopted building code. The board shall have no authority to waive any requirements of the codes enumerated in this chapter or in rules promulgated pursuant to this chapter. Provided further:

(a) The decisions of the board shall be final, and the board shall render all decisions and findings in writing to the appellant and the administrator within ten (10) working days of the conclusion of a hearing; and

(b) For each appeal brought before the board, the chairman shall appoint not less than three (3) members of the board to hear the appeal and render a decision and finding in the name of the board.

(3) The board shall utilize experts, consultants, and technical advisors for assistance and recommendations relative to codes, standards, and appeals.

(4) The administrator may make building code inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable building codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in rules promulgated by the board pursuant to chapter 52, title 67, Idaho Code.

(5) Notwithstanding the exemptions provided in subsection (4)(b) of section 39-4103, Idaho Code, the administrator may make inspections of modular buildings constructed in Idaho upon written request from the manufacturer.

(a) Such inspections shall be made in accordance with the codes adopted in this chapter.

(b) Inspection fees shall be as provided in section 39-4303, Idaho Code.

(c) The administrator of the division of building safety may issue an insignia of approval if the buildings are in compliance with the requirements set forth in chapter 43, title 39, Idaho Code.

[39-4107, added 1975, ch. 180, sec. 2, p. 486; am. 1983, ch. 153, sec. 4, p. 411; am. 2000, ch. 465, sec. 3, p. 1441; am. 2002, ch. 345, sec. 9, p. 969; am. 2004, ch. 250, sec. 3, p. 718; am. 2007, ch. 252, sec. 3, p. 739.]

39-4108. CERTIFICATION. After July 1, 2002, state and local government building inspectors, including state safety advisors, shall hold a valid certification as a building inspector or plans examiner issued by the International Code Council (ICC) or the International Conference of Building Officials (ICBO), except that a building inspector with a valid ICC or ICBO residential building inspector certification may only inspect structures regulated by the International Residential Code (IRC). A building inspector with a valid ICC or ICBO residential building inspector certification working under the supervision of an ICC or ICBO certified building inspector or plans examiner may inspect all occupancy classifications for a period not to exceed three (3) years. Any building inspector or plans examiner possessing state certification as of June 30, 2002, may continue to serve as a building inspector, without renewal, until July 1, 2005, at which time certification as an ICC or ICBO building inspector or plans examiner shall be necessary to retain inspection authority.

[39-4108, added 2002, ch. 345, sec. 11, p. 970.]

39-4109. APPLICATION OF CODES. (1) The following codes are hereby adopted for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

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

(i) Including appendices thereto pertaining to building accessibility;

(ii) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code; and

(iii) Including the incorporated Idaho residential code, parts I, II, III and IX; Idaho energy conservation code; and rules promulgated by the board to provide equivalency with the provisions of

the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included.

(b) The version of the International Residential Code adopted by the Idaho building code board, together with the amendments, revisions or modifications adopted by the Idaho building code board through the negotiated rulemaking process, except for parts IV, V, VI, VII and VIII, as they pertain to energy conservation, mechanical, fuel gas, plumbing and electrical requirements, shall collectively constitute and be named the Idaho residential code. The Idaho residential code shall be in effect until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent version of the Idaho residential code, as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section, shall be in effect. Any amendments, revisions or modifications made to the Idaho residential code by the board shall be made by administrative rules promulgated by the board;

(c) The version of the International Energy Conservation Code adopted by the Idaho building code board, together with the amendments, deletions or additions adopted by the Idaho building code board through the negotiated rulemaking process provided in this chapter, shall be in effect. The International Energy Conservation Code, together with any amendments, revisions or modifications made by the board, shall collectively constitute and be named the Idaho energy conservation code. The Idaho energy conservation code shall be in effect until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the Idaho energy conservation code, as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section, shall be in effect. Any amendments, revisions or modifications made to the Idaho energy conservation code by the board shall be made by administrative rules promulgated by the board; and

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

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

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

(4) Any edition of the building codes adopted by the board will take effect on January 1 of the year following its adoption.

(5) In addition to the negotiated rulemaking process set forth in section 67-5221, Idaho Code, the board shall conduct a minimum of two (2) public hearings, not less than sixty (60) days apart. Express written notice of such public hearings shall be given by the board to each of the following entities not less than five (5) days prior to such hearing: associated general contractors of America, associated builders and contractors, association of Idaho cities, Idaho association of building officials, Idaho

association of counties, Idaho association of REALTORS®, Idaho building contractors association, American institute of architects Idaho chapter, Idaho fire chiefs association, Idaho society of professional engineers, Idaho state independent living council, southwest Idaho building trades, Idaho building trades, and any other entity that, through electronic or written communication received by the administrator not less than twenty (20) days prior to such scheduled meeting, requests written notification of such public hearings.

[39-4109, added 2002, ch. 345, sec. 13, p. 971; am. 2004, ch. 272, sec. 3, p. 759; am. 2004, ch. 359, sec. 2, p. 1074; am. 2007, ch. 184, sec. 1, p. 532; am. 2009, ch. 173, sec. 2, p. 552; am. 2009, ch. 279, sec. 1, p. 841; am. 2010, ch. 79, sec. 14, p. 143; am. 2014, ch. 248, sec. 1, p. 623; am. 2018, ch. 338, sec. 1, p. 769.]

39-4111. PERMITS REQUIRED. (1) It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure, coming under the purview of the division, in the state of Idaho without first procuring a permit from the division authorizing such work to be done.

(2) It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure in a local government jurisdiction enforcing building codes, without first procuring a permit in accordance with the applicable ordinance or ordinances of the local government.

(3) Subject to building code requirements governing accessibility, no permit shall require that any improvement, extension or alteration of any building, residence or structure include an upgrade to comply with building code requirements in unaffected existing parts of the building, residence or structure where the existing parts complied with the applicable building code in effect when such parts were constructed. This limitation shall not apply where the division or enforcing jurisdiction identifies a specific substantial safety hazard that would be created in the existing building, residence or structure by reason of the new improvement, extension or alteration, provided that any additional permitting requirement shall be limited to correcting the specific substantial safety hazard. The burden shall be upon the division or enforcing jurisdiction to prove the existence of such specific substantial safety hazard. The permit shall identify the specific hazard and the basis for determining that it is a substantial hazard.

[39-4111, added 1975, ch. 180, sec. 2, p. 486; am. 1978, ch. 160, sec. 1, p. 348; am. 1983, ch. 153, sec. 8, p. 414; am. 1988, ch. 264, sec. 16, p. 532; am. 1995, ch. 267, sec. 12, p. 863; am. 2002, ch. 345, sec. 15, p. 971; am. 2011, ch. 228, sec. 1, p. 622.]

39-4112. MAXIMUM PERMIT FEES TO BE ASSESSED BY THE DIVISION. Building permit fees shall be as established by rules promulgated by the board. Until such rules are effective, building permit fees based on total value of the construction shall not exceed those given in table 3-A, Uniform Building Code, 1985.

[39-4112, added 1975, ch. 180, sec. 2, p. 486; am. 1983, ch. 153, sec. 9, p. 414; am. 1990, ch. 155, sec. 1, p. 341; am. 2002, ch. 345, sec. 16, p. 972.]

39-4113. PLAN REVIEWS -- MAXIMUM FEES AND SCHOOL INSPECTIONS. (1) The administrator shall establish a program for plan reviews and permit issuance entirely within the division of building safety. Plan reviews shall be for the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86, title 39, Idaho Code, pertaining to construction, alteration or repair of buildings or structures within the scope of the division's jurisdiction pursuant to this chapter. Plans for schools reviewed by the division shall not include a review for compliance with the provisions of chapter 2, title 41, Idaho Code, or for local planning and zoning requirements.

(2) Plan review fees shall be established by rules promulgated by the board. Local governments elected by school districts to perform building plan reviews for public schools as provided for in this section shall not charge a fee for such review of building plans in excess of what the division has established by rule for building plan review services for public schools.

(3) Each manufacturer of commercial coaches and modular buildings shall submit the building plans for every model of such structure to the administrator for the purpose of review.

(4) (a) Public school building plans shall be approved by either the local government or the division of building safety, whichever the school district elects. Any city or county that has adopted by ordinance all the applicable codes pursuant to section 39-4109, Idaho Code, and the codes as permitted in chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, shall be eligible to perform school plan reviews only if the following additional requirements are met: plans examiners performing building and energy code plan reviews shall hold current certification as a commercial building plans examiner by the International Code Council; examiners performing plumbing code plan reviews shall hold current certification as a plumbing inspector by the international association of plumbing and mechanical officials and shall be a licensed Idaho journeyman plumber; examiners performing electrical code plan reviews shall hold current certification as an electrical inspector by the national certification program for construction code inspectors and shall be a licensed Idaho journeyman electrician; and examiners performing mechanical code plan reviews shall hold current certification as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in paragraph (a) of this subsection.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established in rule by the division. Any local govern-

ment elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars (\$100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars (\$100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in paragraph (a) of this subsection. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building (structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

(i) A technical examination of all drawings and construction documents;

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 39-4109, 54-1001, 54-2601 and 54-5001, Idaho Code;

(iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and

(iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school buildings or facilities and additions or alterations to existing facilities. The division will review the plans submitted to it pursuant to this section for compliance with the current editions of the codes specified in this chapter or within rules promulgated pursuant to this chapter by the board and by section 39-8006, Idaho Code.

(5) Public school building plans must be approved by either the local government or the division before the school district may advertise for bids. Once plans are reviewed and approved pursuant to this section, no material change can be made to such plans without review and approval of such change by the jurisdiction performing the plan review. All school construction or remodeling governed by this chapter shall be inspected by building inspectors certified in accordance with section 39-4108, Idaho Code, or by Idaho licensed architects or engineers to determine compliance with this chapter and the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code. Nothing in this section shall limit the authority of local governments to issue building permits, perform fire code or other zoning and land use related plan reviews or provide a full range of building code enforcement activities as they relate to inspections of school buildings

or facilities sited within their jurisdiction regardless of the election exercised by the school district pursuant to this section.

[39-4113, added 1975, ch. 180, sec. 2, p. 486; am. 1978, ch. 160, sec. 2, p. 348; am. 1983, ch. 153, sec. 10, p. 414; am. 1988, ch. 264, sec. 17, p. 532; am. 1990, ch. 155, sec. 2, p. 341; am. 1990, ch. 167, sec. 1, p. 364; am. 1995, ch. 267, sec. 13, p. 863; am. 1996, ch. 2, sec. 1, p. 4; am. 2000, ch. 352, sec. 2, p. 1186; am. 2002, ch. 345, sec. 17, p. 972; am. 2009, ch. 219, sec. 1, p. 681; am. 2010, ch. 174, sec. 1, p. 357; am. 2015, ch. 110, sec. 10, p. 277.]

39-4115. PERSONNEL. The division shall designate a nonclassified employee to serve as the executive director of the board and such other personnel as necessary to effect enforcement of the codes herein enumerated or otherwise prescribed by rules promulgated by the board pursuant to this chapter.

[39-4115, added 1975, ch. 180, sec. 2, p. 486; am. 2002, ch. 345, sec. 19, p. 973; am. 2012, ch. 28, sec. 1, p. 85.]

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

(2) Local governments that issue building permits and perform building code enforcement activities shall, by ordinance effective January 1 of the year following the adoption by the Idaho building code board, adopt the following codes as published by the International Code Council together with any amendments or revisions set forth in section 39-4109, Idaho Code, including subsequent versions of the International Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this chapter:

(a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;

(b) Idaho residential code, parts I-III and IX; and

(c) Idaho energy conservation code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code. Local jurisdictions shall not adopt provisions, chapters, sections or parts of subsequent versions of the International Residential Code or residential provisions of the International Energy Conservation Code, or subsequent versions in their entirety, that have not been adopted by the Idaho building code board except as provided in subsection (4) of this section.

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

(4) Except as provided in this subsection, local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code. A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code, except as provided in this subsection.

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

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

(c) Local jurisdictions may amend by ordinance the following provisions of the Idaho residential code to reflect local concerns:

(i) Part I, Administrative;

(ii) Part II, Definitions;

(iii) Part III, Building Planning and Construction, Section R 301, Design Criteria; and

(iv) Part IX, Appendices.

(d) Local jurisdictions may amend by ordinance the following provisions of the Idaho energy conservation code to reflect local concerns:

(i) Chapter 1, Scope and Application; and

(ii) Chapter 2, Definitions.

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

(5) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

(6) Permits shall be governed by the laws in effect at the time the permit application is received.

(7) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant

inspections and enforcement of construction standards for modular buildings and commercial coaches.

[39-4116, added 2002, ch. 345, sec. 21, p. 973; am. 2004, ch. 272, sec. 4, p. 760; am. 2009, ch. 173, sec. 3, p. 553; am. 2009, ch. 219, sec. 2, p. 683; am. 2009, ch. 279, sec. 2, p. 841; am. 2010, ch. 79, sec. 15, p. 144; am. 2014, ch. 248, sec. 2, p. 625; am. 2018, ch. 338, sec. 2, p. 770.]

39-4120. APPEALS TO BOARD -- JUDICIAL REVIEW. The board shall, within twenty (20) days after receipt of notice for an appeal, hear such appeals brought before it by persons affected by any code, rule, regulation or decision applicable to buildings within the jurisdiction of the division. Such proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

[39-4120, added 1975, ch. 180, sec. 2, p. 486; am. 1983, ch. 153, sec. 14, p. 416; am. 1993, ch. 216, sec. 26, p. 608; am. 2002, ch. 345, sec. 23, p. 974.]

39-4124. "IDAHO BUILDING CODE FUND" ESTABLISHED. All money received by the division under the terms and provisions of this chapter shall be paid into the state treasury, and shall be, by the state treasurer, placed to the credit of the general fund in an account to be known as the "Idaho building code fund," and all such moneys, hereafter placed in said fund, are hereby set aside and appropriated to the division to carry into effect the provisions of this chapter.

[39-4124, added 1975, ch. 180, sec. 2, p. 486; am. 2002, ch. 345, sec. 26, p. 975.]

39-4125. INJUNCTION -- AFFIDAVIT SETTING OUT NONCONFORMITY. The division may obtain from a district court having jurisdiction, a temporary injunction enjoining the construction of a building(s) or installation of modular buildings on any building site upon affidavit of the division that such building does not conform to the requirements of this chapter or to the rules adopted pursuant to this chapter or any other chapter of Idaho Code relating to building construction. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court.

[39-4125, added 1975, ch. 180, sec. 2, p. 486; am. 1988, ch. 264, sec. 20, p. 534; am. 2002, ch. 345, sec. 27, p. 975.]

39-4126. VIOLATIONS MISDEMEANORS. (1) Any person who willfully violates any provision of this chapter or who willfully violates any provisions of the codes enumerated in this chapter or rules promulgated by the administrator or the board pursuant to this chapter, is guilty of a misdemeanor, and upon conviction, shall be fined not more than three hundred dollars (\$300), or imprisoned for not more than ninety (90) days or by both fine and imprisonment. Violations of this chapter shall be tried in any court of competent jurisdiction within the state of Idaho.

(2) A separate violation is deemed to have occurred with respect to each building not in compliance with this chapter. Each day such violation continues constitutes a separate offense.

(3) The misdemeanor provisions of subsections (1) and (2) of this section shall not apply to manufactured homes. Violations of manufactured home construction and safety standards shall be tried in any court of competent jurisdiction.

[39-4126, added 1975, ch. 180, sec. 2, p. 486; am. 1988, ch. 264, sec. 21, p. 534; am. 2002, ch. 345, sec. 28, p. 975.]

39-4129. SEVERABILITY. If any portion of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

[I.C., sec. 39-4129, as added by 1975, ch. 180, sec. 2, p. 486.]