

BUILDING CODE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Todd E. Kiser

LONG TITLE

General Description:

This bill modifies the adoption and administration of the building and fire codes.

Highlighted Provisions:

This bill:

- ▶ modifies the powers and duties of the Uniform Building Code Commission, including:
 - authorizing the commission to recommend building codes to the Legislature for adoption; and
 - authorizing the commission to adopt building codes for public welfare during the legislative interim that are repealed at the end of the next legislative session;
- ▶ modifies the powers and duties of the Fire Prevention Board, including:
 - authorizing the board to recommend fire codes to the Legislature for adoption;
- and
 - authorizing the board to adopt fire codes for public welfare during the legislative interim that are repealed at the end of the next legislative session; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **26-15-3**, as last amended by Laws of Utah 1995, Chapter 218
- 31 **26A-1-113**, as last amended by Laws of Utah 2002, Chapter 249
- 32 **26A-1-114**, as last amended by Laws of Utah 2008, Chapter 339
- 33 **53-7-106**, as last amended by Laws of Utah 2001, Chapter 25
- 34 **53-7-202**, as last amended by Laws of Utah 2007, Chapter 253
- 35 **53-7-204**, as last amended by Laws of Utah 2008, Chapter 382
- 36 **53-7-209**, as last amended by Laws of Utah 2001, Chapter 25
- 37 **58-56-3**, as last amended by Laws of Utah 2007, Chapter 145
- 38 **58-56-4**, as last amended by Laws of Utah 2008, Chapter 382
- 39 **58-56-5**, as last amended by Laws of Utah 2002, Chapter 75
- 40 **58-56-6**, as last amended by Laws of Utah 2002, Chapter 75
- 41 **58-56-7**, as last amended by Laws of Utah 2008, Chapter 382

42

43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **26-15-3** is amended to read:

45 **26-15-3. Department to advise Uniform Building Code Commission regarding the**
46 **code and specific edition of a plumbing code.**

47 The department shall advise the Division of Occupational and Professional Licensing
48 and the Uniform Building Code Commission with respect to the code and specific edition of a
49 plumbing code adopted by a nationally recognized code authority to be ~~adopted~~ administered
50 by the Division of Occupational and Professional Licensing, and amendments to that code as
51 provided for under Section 58-56-5. The department may enforce the plumbing code adopted
52 by the Division of Occupational and Professional Licensing under Section 58-56-4. The
53 provisions of Section 58-56-9 do not apply to health inspectors acting under this section.

54 Section 2. Section **26A-1-113** is amended to read:

55 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**

56 (1) Upon presenting proper identification, authorized representatives of local health
57 departments may enter upon the premises of properties regulated by local health departments to
58 perform routine inspections to insure compliance with rules, standards, regulations, and

59 ordinances as adopted by the Departments of Health and Environmental Quality, local boards
60 of health, county or municipal governing bodies, or administered by the Division of
61 Occupational and Professional Licensing under Section 58-56-4.

62 (2) Section 58-56-9 does not apply to health inspectors acting under this section.

63 (3) This section does not authorize local health departments to inspect private
64 dwellings.

65 Section 3. Section **26A-1-114** is amended to read:

66 **26A-1-114. Powers and duties of departments.**

67 (1) A local health department may:

68 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
69 department rules, and local health department standards and regulations relating to public
70 health and sanitation, including the plumbing code [~~adopted~~] administered by the Division of
71 Occupational and Professional Licensing under Section 58-56-4 and under Title 26, Chapter
72 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas
73 served by the local health department;

74 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
75 control over property and over individuals as the local health department finds necessary for
76 the protection of the public health;

77 (c) establish and maintain medical, environmental, occupational, and other laboratory
78 services considered necessary or proper for the protection of the public health;

79 (d) establish and operate reasonable health programs or measures not in conflict with
80 state law which:

81 (i) are necessary or desirable for the promotion or protection of the public health and
82 the control of disease; or

83 (ii) may be necessary to ameliorate the major risk factors associated with the major
84 causes of injury, sickness, death, and disability in the state;

85 (e) close theaters, schools, and other public places and prohibit gatherings of people
86 when necessary to protect the public health;

87 (f) abate nuisances or eliminate sources of filth and infectious and communicable
88 diseases affecting the public health and bill the owner or other person in charge of the premises
89 upon which this nuisance occurs for the cost of abatement;

90 (g) make necessary sanitary and health investigations and inspections on its own
91 initiative or in cooperation with the Department of Health or Environmental Quality, or both,
92 as to any matters affecting the public health;

93 (h) pursuant to county ordinance or interlocal agreement:

94 (i) establish and collect appropriate fees for the performance of services and operation
95 of authorized or required programs and duties;

96 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
97 property, services, or materials for public health purposes; and

98 (iii) make agreements not in conflict with state law which are conditional to receiving a
99 donation or grant;

100 (i) prepare, publish, and disseminate information necessary to inform and advise the
101 public concerning:

102 (i) the health and wellness of the population, specific hazards, and risk factors that may
103 adversely affect the health and wellness of the population; and

104 (ii) specific activities individuals and institutions can engage in to promote and protect
105 the health and wellness of the population;

106 (j) investigate the causes of morbidity and mortality;

107 (k) issue notices and orders necessary to carry out this part;

108 (l) conduct studies to identify injury problems, establish injury control systems,
109 develop standards for the correction and prevention of future occurrences, and provide public
110 information and instruction to special high risk groups;

111 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
112 within the jurisdiction of the boards;

113 (n) cooperate with the state health department, the Department of Corrections, the
114 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
115 Victim Reparations Board to conduct testing for HIV infection of convicted sexual offenders
116 and any victims of a sexual offense;

117 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

118 (p) provide public health assistance in response to a national, state, or local emergency,
119 a public health emergency as defined in Section 26-23b-102, or a declaration by the President
120 of the United States or other federal official requesting public health-related activities.

- 121 (2) The local health department shall:
- 122 (a) establish programs or measures to promote and protect the health and general
123 wellness of the people within the boundaries of the local health department;
- 124 (b) investigate infectious and other diseases of public health importance and implement
125 measures to control the causes of epidemic and communicable diseases and other conditions
126 significantly affecting the public health which may include involuntary testing of convicted
127 sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of
128 victims of sexual offenses for HIV infection pursuant to Section 76-5-503;
- 129 (c) cooperate with the department in matters pertaining to the public health and in the
130 administration of state health laws; and
- 131 (d) coordinate implementation of environmental programs to maximize efficient use of
132 resources by developing with the Department of Environmental Quality a Comprehensive
133 Environmental Service Delivery Plan which:
- 134 (i) recognizes that the Department of Environmental Quality and local health
135 departments are the foundation for providing environmental health programs in the state;
- 136 (ii) delineates the responsibilities of the department and each local health department
137 for the efficient delivery of environmental programs using federal, state, and local authorities,
138 responsibilities, and resources;
- 139 (iii) provides for the delegation of authority and pass through of funding to local health
140 departments for environmental programs, to the extent allowed by applicable law, identified in
141 the plan, and requested by the local health department; and
- 142 (iv) is reviewed and updated annually.
- 143 (3) The local health department has the following duties regarding public and private
144 schools within its boundaries:
- 145 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
146 persons attending public and private schools;
- 147 (b) exclude from school attendance any person, including teachers, who is suffering
148 from any communicable or infectious disease, whether acute or chronic, if the person is likely
149 to convey the disease to those in attendance; and
- 150 (c) (i) make regular inspections of the health-related condition of all school buildings
151 and premises;

152 (ii) report the inspections on forms furnished by the department to those responsible for
153 the condition and provide instructions for correction of any conditions that impair or endanger
154 the health or life of those attending the schools; and

155 (iii) provide a copy of the report to the department at the time the report is made.

156 (4) If those responsible for the health-related condition of the school buildings and
157 premises do not carry out any instructions for corrections provided in a report in Subsection
158 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
159 persons responsible.

160 (5) The local health department may exercise incidental authority as necessary to carry
161 out the provisions and purposes of this part.

162 Section 4. Section **53-7-106** is amended to read:

163 **53-7-106. Adoption of fire code.**

164 (1) A fire code promulgated by a nationally recognized code authority and adopted by
165 the [~~Utah Fire Prevention Board pursuant to Section 53-7-204~~] Legislature under Section
166 58-56-4 is the state fire code, to which cities, counties, fire protection districts, and the state
167 shall adhere in safeguarding life and property from the hazards of fire and explosion.

168 (2) (a) The legislative body of a political subdivision may make ordinances that are
169 more restrictive in its fire code requirements than the state fire code, in order to meet the public
170 safety needs of the political subdivision.

171 (b) The legislative body of a political subdivision shall provide to the Utah Fire
172 Prevention Board one copy of each ordinance enacted under Subsection (2)(a).

173 (c) The state fire marshal shall keep an indexed copy of the ordinances.

174 (d) Copies of the ordinances are available from the state fire marshal on request.

175 Section 5. Section **53-7-202** is amended to read:

176 **53-7-202. Definitions.**

177 As used in this part:

178 (1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

179 (a) uses sound or light when deployed; and

180 (b) is designated to prevent crop damage or unwanted animals from entering a
181 specified area.

182 (2) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.

183 (3) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the U.S.
184 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

185 (4) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the U.S.
186 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

187 (5) "Class C explosive" means a division 1.4G explosive as defined by the U.S.
188 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

189 (6) (a) "Class C common state approved explosive" means a class C explosive that is:

190 (i) a cardboard or heavy paper cylindrical tube or cone that:

191 (A) produces a shower of color and sparks that reach a maximum height of 15 feet;

192 (B) may whistle or pop; and

193 (C) is not designed to explode or leave the ground;

194 (ii) a pyrotechnic wheel device that:

195 (A) may be attached to a post or tree; and

196 (B) contains up to six "driver" units or tubes;

197 (iii) any device that:

198 (A) spins, jumps, or emits popping sounds when placed on the ground;

199 (B) does not exceed a height of 15 feet when discharged; and

200 (C) does not travel laterally more than ten feet on a smooth surface when discharged;

201 (iv) a morning glory, suzuki, or flitter sparkler; and

202 (v) a single tube day type parachute that does not carry any flare or flame upon descent.

203 (b) "Class C common state approved explosive" does not mean:

204 (i) class C dangerous explosives; or

205 (ii) exempt explosives.

206 (7) (a) "Class C dangerous explosive" means a class C explosive that is:

207 (i) a firecracker, cannon cracker, salute, cherry bomb, or other similar explosive;

208 (ii) a skyrocket or any device other than a model rocket that uses combustible or

209 explosive material and rises more than 15 feet when discharged;

210 (iii) a roman candle or other device that discharges balls of fire over 15 feet in height;

211 (iv) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or
212 similar devices more than 15 feet into the air; and

213 (v) a chaser, whistler, or other device that darts or travels more than ten feet laterally

214 on a smooth surface or exceeds 15 feet in height when discharged.

215 (b) A "class C dangerous explosive" does not mean:

216 (i) class C common state approved explosives; or

217 (ii) exempt explosives.

218 (8) "Display fireworks" means an aerial shell, salute, flash shell, comet, sky battle,
219 mine, and any similar class C explosive or class B explosive.

220 (9) (a) "Display operator" means the person who purchases and is responsible for
221 setting up and discharging display fireworks.

222 (b) "Display operator" does not mean a fire department.

223 (10) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare,
224 snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches
225 in length.

226 (11) (a) "Fireworks" means:

227 (i) class C explosives;

228 (ii) class C dangerous explosives; and

229 (iii) class C common state approved explosives.

230 (b) "Fireworks" does not mean:

231 (i) exempt explosives;

232 (ii) class A explosives; and

233 (iii) class B explosives.

234 (12) "Importer" means a person who brings class B or class C explosives into Utah for
235 the general purpose of resale within the state or exportation to other states.

236 (13) (a) "Pyrotechnic" means any composition or device manufactured or used to
237 produce a visible or audible effect by combustion, deflagration, or detonation.

238 (b) "Pyrotechnic" does not mean exempt explosives.

239 (14) "Retail seller" means a person who sells class C common state approved
240 explosives to the public during the period authorized under Section 53-7-225.

241 (15) "State fire code" means a nationally recognized fire code [~~adopted~~] administered
242 by the Utah Fire Prevention Board pursuant to Section 53-7-204.

243 (16) "Trick noisemaker" includes a:

244 (a) tube or sphere containing pyrotechnic composition that produces a white or colored

245 smoke as its primary effect when ignited; and

246 (b) device that produces a small report intended to surprise the user, including a:

247 (i) "booby trap," which is a small tube with a string protruding from both ends that
248 ignites the friction sensitive composition in the tube when the string is pulled;

249 (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of
250 explosive composition coated on bits of sand that explodes producing a small report;

251 (iii) "trick match," which is a kitchen or book match coated with a small quantity of
252 explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

253 (iv) "cigarette load," which is a small wooden peg coated with a small quantity of
254 explosive composition that produces a small report when the cigarette is ignited; and

255 (v) "auto burglar alarm," which is a tube that:

256 (A) contains pyrotechnic composition that produces a loud whistle and smoke when
257 ignited;

258 (B) may contain a small quantity of explosive to produce a small explosive noise; and

259 (C) is ignited by a squib.

260 (17) "Unclassified fireworks" means any of the following:

261 (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been
262 tested, approved, and classified by the U.S. Department of Transportation;

263 (b) an approved device that has been altered or redesigned since obtaining approval by
264 the U.S. Department of Transportation; and

265 (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler
266 before receiving approval by the U.S. Department of Transportation.

267 (18) "Wholesaler" means any of the following:

268 (a) a person who sells class C common state approved explosives to a retailer; and

269 (b) a person who sells class B explosives or class C dangerous explosives for display
270 use.

271 Section 6. Section **53-7-204** is amended to read:

272 **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**

273 (1) The board shall:

274 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
275 Rulemaking Act:

276 (i) [~~adopting~~] administer a nationally recognized fire code and the specific edition of
277 that fire code as the state fire code to be used as the standard;

278 (ii) establishing minimum standards for the prevention of fire and for the protection of
279 life and property against fire and panic in any:

280 (A) publicly owned building, including all public and private schools, colleges, and
281 university buildings;

282 (B) building or structure used or intended for use as an asylum, a mental hospital, a
283 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
284 care center, or any similar institutional type occupancy of any capacity; and

285 (C) place of assemblage where 50 or more persons may gather together in a building,
286 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

287 (iii) establishing safety and other requirements for placement and discharge of display
288 fireworks based upon:

289 (A) the specific edition of the nationally recognized fire code [~~selected by the board~~
290 ~~under Subsection (1)(a)(i)] adopted by the Legislature under Section 58-56-4; and~~

291 (B) relevant publications of the National Fire Protection Association;

292 (iv) establishing minimum safety standards for retail storage, handling, and sale of
293 class C common state approved explosives;

294 (v) defining methods to establish proof of competence to place and discharge display
295 fireworks;

296 (vi) for deputizing qualified persons to act as deputy fire marshals, and to secure
297 special services in emergencies;

298 (vii) implementing Sections 53-7-106 and 53-7-205;

299 (viii) setting guidelines for use of funding;

300 (ix) establishing criteria for training and safety equipment grants for fire departments
301 enrolled in firefighter certification; and

302 (x) establishing minimum ongoing training standards for hazardous materials
303 emergency response agencies;

304 (b) recommend to the commissioner a state fire marshal;

305 (c) develop policies under which the state fire marshal and the state fire marshal's
306 authorized representatives will perform;

307 (d) provide for the employment of field assistants and other salaried personnel as
308 required;

309 (e) prescribe the duties of the state fire marshal and the state fire marshal's authorized
310 representatives;

311 (f) establish a statewide fire prevention, fire education, and fire service training
312 program in cooperation with the Board of Regents;

313 (g) establish a statewide fire statistics program for the purpose of gathering fire data
314 from all political subdivisions of the state;

315 (h) establish a fire academy in accordance with Section 53-7-204.2;

316 (i) coordinate the efforts of all people engaged in fire suppression in the state;

317 (j) work aggressively with the local political subdivisions to reduce fire losses;

318 (k) regulate the sale and servicing of portable fire extinguishers and automatic fire
319 suppression systems in the interest of safeguarding lives and property;

320 (l) establish a certification program for persons who inspect and test automatic fire
321 sprinkler systems;

322 (m) establish a certification program for persons who inspect and test fire alarm
323 systems; [~~and~~]

324 (n) establish a certification for persons who provide response services regarding
325 hazardous materials emergencies[~~;~~]; and

326 (o) in accordance with Section 58-56-4, make a report to the Business and Labor
327 Interim Committee by ~~§~~ :

327a (i) ~~←§~~ no later than November 30 of each year recommending ~~§~~ any amendments to the
327b currently adopted fire code; and

327c (ii) no later than November 30 in a year of a regularly scheduled update cycle of a
327d nationally promulgated fire code recommending ~~←§~~ the adoption of,

328 amendment to, or repeal of ~~§~~ [a] the updated ~~←§~~ nationally promulgated fire code.

329 (2) The board may incorporate in its rules by reference, in whole or in part, nationally
330 recognized and readily available standards and codes adopted by the Legislature pertaining to
331 the protection of life and property from fire, explosion, or panic.

332 (3) (a) The board [~~may only make~~] shall recommend to the Legislature in accordance
333 with Subsection (1)(o) amendments to the state fire code adopted [~~under Subsection (1)(a)(i)]~~
334 by the Legislature in accordance with Section [~~53-7-205~~] 58-56-7.

335 (b) The amendments, as adopted by the Legislature, may be applicable to the entire
336 state or within a city, county, or fire protection district.

337 (4) The following functions shall be administered locally by a city, county, or fire

338 protection district:

339 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
340 19-2-114;

341 (b) creating a local board of appeals in accordance with the state fire code; and

342 (c) establishing, modifying, or deleting fire flow and water supply requirements.

343 Section 7. Section **53-7-209** is amended to read:

344 **53-7-209. Inspection of buildings by officials.**

345 (1) A fire chief or officer may enter any building or premises not used as a private
346 dwelling at any reasonable hour to inspect the building or premises and enforce the rules made
347 under this part, including the state fire code adopted under Section [~~53-7-204~~] 58-56-4.

348 (2) The owner, lessee, manager, or operator of any building or premises not used as a
349 private dwelling shall permit inspections under this section.

350 Section 8. Section **58-56-3** is amended to read:

351 **58-56-3. Definitions.**

352 In addition to the definitions in Section 58-1-102, as used in this chapter:

353 (1) (a) "Adopted code" means:

354 (i) (A) a new edition of or amendment to an existing code, including the standards and
355 specifications contained in the code, adopted by the Legislature under Section 58-56-7; and

356 (B) administered by the division under Section 58-56-6; and

357 (ii) adopted by a nationally recognized code authority, including:

358 (A) a building code;

359 (B) the National Electrical Code promulgated by the National Fire Protection

360 Association;

361 (C) a residential one and two family dwelling code;

362 (D) a plumbing code;

363 (E) a mechanical code;

364 (F) a fuel gas code;

365 (G) an energy conservation code; and

366 (H) a manufactured housing installation standard code.

367 (b) "Adopted code" includes:

368 (i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and

369 (ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division
370 and Uniform Building Code Commission or the Fire Protection Board before May 12, 2009.

371 (2) (a) (i) "Approved code" means a code, including the standards and specifications
372 contained in the code, approved by the division under Section 58-56-4 for use by a compliance
373 agency; and

374 (ii) administered by the division under Section 58-56-6.

375 (b) "Approved code" does not include an adopted code listed under Subsection (1)(b).

376 (3) "Board" means the Fire Prevention Board created in Section 53-7-203.

377 ~~[(4)]~~ (4) "Building" means a structure used or intended for supporting or sheltering any
378 use or occupancy and any improvements attached to it.

379 ~~[(2)]~~ "Code(s)" means the following codes, including the standards and specifications
380 contained in them:]

381 ~~[(a)]~~ codes adopted by the commission under Subsection 58-56-4(2); and]

382 ~~[(b)]~~ codes approved by the commission under Subsection 58-56-4(4)(a).]

383 ~~[(3)]~~ (5) "Commission" means the Uniform Building Code Commission created under
384 this chapter.

385 ~~[(4)]~~ (6) "Compliance agency" means:

386 (a) an agency of the state or any of its political subdivisions which issues permits for
387 construction regulated under the codes;

388 (b) any other agency of the state or its political subdivisions specifically empowered to
389 enforce compliance with the codes; or

390 (c) any other state agency which chooses to enforce codes adopted under this chapter
391 by authority given the agency under a title other than Title 58, Occupations and Professions.

392 ~~[(5)]~~ (7) "Factory built housing" means manufactured homes or mobile homes.

393 ~~[(6)]~~ (8) (a) "Factory built housing set-up contractor" means an individual licensed by
394 the division to set up or install factory built housing on a temporary or permanent basis.

395 (b) The scope of the work included under the license includes the placement or
396 securing, or both placement and securing, of the factory built housing on a permanent or
397 temporary foundation, securing the units together if required, and connection of the utilities to
398 the factory built housing unit, but does not include site preparation, construction of a
399 permanent foundation, and construction of utility services to the near proximity of the factory

400 built housing unit.

401 (c) If a dealer is not licensed as a factory built housing set-up contractor, that individual
402 must subcontract the connection services to individuals who are licensed by the division to
403 perform those specific functions under Title 58, Chapter 55, Utah Construction Trades
404 Licensing Act.

405 [~~(7)~~] (9) "HUD code" means the National Manufactured Housing Construction and
406 Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

407 (10) "Legislative action" means the Legislature's:

408 (a) adoption of a new adopted code;

409 (b) adoption of an amendment to an existing adopted code;

410 (c) repeal of an adopted code; or

411 (d) repeal of a provision of an adopted code.

412 [~~(8)~~] (11) "Local regulator" means each political subdivision of the state which is
413 empowered to engage in the regulation of construction, alteration, remodeling, building, repair,
414 and other activities subject to the codes.

415 [~~(9)~~] (12) (a) "Manufactured home" means a transportable factory built housing unit
416 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
417 which:

418 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
419 length, or when erected on site, is 400 or more square feet; and

420 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
421 without a permanent foundation when connected to the required utilities, and includes the
422 plumbing, heating, air-conditioning, and electrical systems.

423 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
424 the manufacturer's data plate bearing the date the unit was manufactured and a HUD label
425 attached to the exterior of the home certifying the home was manufactured to HUD standards.

426 [~~(10)~~] (13) "Mobile home" means a transportable factory built housing unit built prior
427 to June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
428 Code.

429 [~~(11)~~] (14) "Modular unit" means a structure built from sections which are
430 manufactured in accordance with the construction standards adopted pursuant to Section

431 58-56-4 and transported to a building site, the purpose of which is for human habitation,
432 occupancy, or use.

433 ~~[(12)]~~ (15) "Opinion" means a written, nonbinding, and advisory statement issued by
434 the commission concerning an interpretation of the meaning of the codes or the application of
435 the codes in a specific circumstance issued in response to a specific request by a party to the
436 issue.

437 ~~[(13)]~~ (16) "State regulator" means an agency of the state which is empowered to
438 engage in the regulation of construction, alteration, remodeling, building, repair, and other
439 activities subject to the codes adopted pursuant to this chapter.

440 Section 9. Section **58-56-4** is amended to read:

441 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
442 **other codes -- Exemptions.**

443 (1) As used in this section:

444 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
445 or keeping or raising domestic animals;

446 (b) "not for human occupancy" means use of a structure for purposes other than
447 protection or comfort of human beings, but allows people to enter the structure for:

448 (i) maintenance and repair; and

449 (ii) the care of livestock, crops, or equipment intended for agricultural use which are
450 kept there; and

451 (c) "residential area" means land that is not used for an agricultural use and is:

452 (i) (A) within the boundaries of a city or town; and

453 (B) less than five contiguous acres;

454 (ii) (A) within a subdivision for which the county has approved a subdivision plat
455 under Title 17, Chapter 27a, Part 6, Subdivisions; and

456 (B) less than two contiguous acres; or

457 (iii) not located in whole or in part in an agricultural protection area created under Title
458 17, Chapter 41, Agriculture and Industrial Protection ~~[Area]~~ Areas.

459 ~~[(2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each~~
460 ~~of which must be promulgated by a nationally recognized code authority, shall be adopted, in~~
461 ~~the manner described in Subsection (2)(b), as the construction codes which the state and each~~

462 political subdivision of the state shall follow in the circumstances described in Subsection (3):]

463 [~~(i) a building code;~~]

464 [~~(ii) the National Electrical Code promulgated by the National Fire Protection~~

465 Association;]

466 [~~(iii) a residential one and two family dwelling code;~~]

467 [~~(iv) a plumbing code;~~]

468 [~~(v) a mechanical code;~~]

469 [~~(vi) a fuel gas code;~~]

470 [~~(vii) an energy conservation code; and]~~

471 [~~(viii) a manufactured housing installation standard code;]~~

472 [~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~

473 the division, in collaboration with the commission, shall adopt by rule specific editions of the

474 codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted

475 code.]

476 [~~(c) The division, in collaboration with the commission, may, in accordance with~~

477 Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be

478 applicable to the entire state or within one or more political subdivisions.]

479 [~~(3) Subject to the provisions of Subsections (4) and (5), the codes and amendments~~

480 adopted under Subsection (2) shall be followed when:]

481 [~~(a) new construction is involved;~~]

482 [~~(b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:]~~

483 [~~(i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,~~

484 conservation, or reconstruction of the building; or]

485 [~~(ii) changing the character or use of the building in a manner which increases the~~

486 occupancy loads, other demands, or safety risks of the building.]

487 (2) A person shall follow an adopted code when:

488 (a) new construction is involved; and

489 (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

490 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,

491 conservation, or reconstruction of the building; or

492 (ii) changing the character or use of the building in a manner which increases the

493 occupancy loads, other demands, or safety risks of the building.

494 (3) (a) Beginning May 12, 2009, the board and commission shall, in accordance with
 495 Sections 53-7-204 and 58-56-5, make recommendations to the Business and Labor Interim
 496 Committee as to whether or not the Legislature should take legislative action.

497 (b) (i) If the Business and Labor Interim Committee decides to recommend legislative
 498 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
 499 for consideration by the Legislature in the next general session.

500 (ii) The legislation described in Subsection (3)(b)(i) shall direct:

501 (A) the division to administer an adopted code, excluding the fire code, in accordance
 502 with legislative action approved by the Legislature; and

503 (B) the board to administer an adopted fire code in accordance with legislative action
 504 approved by the Legislature.

505 (4) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title
 506 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt an adopted code, except the fire
 507 code, if the commission determines that waiting for legislative action in the next general
 508 legislative session under Subsection (3) would:

509 (i) cause an imminent peril to the public health, safety, or welfare; or

510 (ii) place a person in violation of federal or other state law.

511 (b) If the commission adopts an adopted code under Subsection (4)(a), the commission
 512 shall file with the division:

513 (i) the text of the adopted code; and

514 (ii) an analysis that includes the specific reasons and justifications for its findings.

515 (c) The division shall, in accordance with Subsection (4)(b):

516 (i) publish the adopted code in accordance with Section 58-56-6; and

517 (ii) notify the Business and Labor Interim Committee of the adoption, including a copy
 518 of the commission's analysis described in Subsection (5)(b).

519 (d) ~~§~~ → [Am] **If not formally adopted by the Legislature at its next annual general**
 519a **session, an** ←~~§~~ adopted code adopted under this Subsection (4) is repealed effective at midnight
 520 on the last day that the Legislature adjourns sine die at its next annual general session.

521 (5) (a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G,
 522 Chapter 3, Utah Administrative Rulemaking Act, adopt a fire code, if the board determines that
 523 waiting for legislative action in the next general legislative session under Subsection (3) would:

524 (i) cause an imminent peril to the public health, safety, or welfare; or

525 (ii) place a person in violation of federal or other state law.

526 (b) ~~§→ [If the board adopts a fire code under Subsection (5)(a), the board shall file with the~~
527 ~~division:~~

528 ~~—— (i) the text of the adopted fire code; and~~

529 ~~—— (ii) an analysis that includes the specific reasons and justifications for its findings;~~

530 ~~—— (c) ←§ The board shall §→ [; in accordance with Subsection (5)(b)] ←§ :~~

531 (i) publish the adopted fire code; and

532 (ii) notify the Business and Labor Interim Committee of the adoption, including a copy

533 ~~§→ [of the board's analysis described in Subsection (5)(b)] of an analysis by the board identifying~~
533a ~~specific reasons and justifications for its findings ←§ .~~

534 (d) ~~§→ [A] If not formally adopted by the Legislature at its next annual general~~
534a ~~session, a ←§ fire code adopted under this Subsection (5) is repealed effective at midnight on~~
535 ~~the last day that the Legislature adjourns sine die at its next annual general session.~~

536 [(4)] (6) (a) The division, in [~~collaboration~~] consultation with the commission, has
537 discretion to approve, without adopting, certain approved codes [~~in addition to those described~~
538 ~~in Subsection (2)(a)], including specific editions of the approved codes, for use by a
539 compliance agency.~~

540 (b) [~~If the applicable code is one which the division has approved under Subsection~~
541 ~~(4)(a)] Under Subsection (6)(a), a compliance agency has the discretion to:~~

542 (i) adopt an ordinance requiring removal, demolition, or repair of a building, according
543 to [a] an adopted code;

544 (ii) adopt, by ordinance or rule, a dangerous building code; or

545 (iii) adopt, by ordinance or rule, a building rehabilitation code.

546 [(5)] (7) (a) Except in a residential area, a structure used solely in conjunction with
547 agriculture use, and not for human occupancy, is exempted from the permit requirements of
548 [~~any code adopted by the division~~] an adopted code.

549 (b) Notwithstanding Subsection [(5)] (7)(a), unless otherwise exempted, plumbing,
550 electrical, and mechanical permits may be required when that work is included in the structure.
551 Section 10. Section **58-56-5** is amended to read:

552 **58-56-5. Uniform Building Code Commission -- Composition of commission --**
553 **Commission duties and responsibilities.**

554 (1) There is established a Uniform Building Code Commission to advise the division

555 with respect to the division's responsibilities in administering the codes under this chapter.

556 (2) The commission shall be appointed by the executive director who shall submit [~~his~~]
557 those nominations to the governor for confirmation or rejection. If a nominee is rejected,
558 alternative names shall be submitted until confirmation is received. Following confirmation by
559 the governor, the appointment [~~shall be made~~] is effective.

560 (3) The commission shall consist of eleven members who shall be appointed in
561 accordance with the following:

562 (a) one member shall be from among candidates nominated by the Utah League of
563 Cities and Towns and the Utah Association of Counties;

564 (b) one member shall be a licensed building inspector employed by a political
565 subdivision of the state;

566 (c) one member shall be a licensed professional engineer;

567 (d) one member shall be a licensed architect;

568 (e) one member shall be a fire official;

569 (f) three members shall be contractors licensed by the state, of which one shall be a
570 general contractor, one an electrical contractor, and one a plumbing contractor;

571 (g) two members shall be from the general public and have no affiliation with the
572 construction industry or real estate development industry; and

573 (h) one member shall be from the Division of Facilities Construction Management,
574 Department of Administrative Services.

575 (4) (a) Except as required by Subsection (4)(b), as terms of current commission
576 members expire, the executive director shall appoint each new member or reappointed member
577 to a four-year term.

578 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,
579 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
580 of commission members are staggered so that approximately half of the commission is
581 appointed every two years.

582 (5) When a vacancy occurs in the membership for any reason, the executive director
583 shall appoint a replacement [~~shall be appointed~~] for the unexpired term.

584 (6) No commission member may serve more than two full terms, and no commission
585 member who ceases to serve may again serve on the commission until after the expiration of

586 two years from the date of cessation of service.

587 (7) A majority of the commission members shall constitute a quorum and may act on
588 behalf of the commission.

589 (8) (a) (i) Members who are not government employees shall receive no compensation
590 or benefits for their services, but may receive per diem and expenses incurred in the
591 performance of the member's official duties at the rates established by the Division of Finance
592 under Sections 63A-3-106 and 63A-3-107.

593 (ii) Members may decline to receive per diem and expenses for their service.

594 (b) (i) State government officer and employee members who do not receive salary, per
595 diem, or expenses from their agency for their service may receive per diem and expenses
596 incurred in the performance of their official duties from the commission at the rates established
597 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

598 (ii) State government officer and employee members may decline to receive per diem
599 and expenses for their service.

600 (c) (i) Local government members who do not receive salary, per diem, or expenses
601 from the entity that they represent for their service may receive per diem and expenses incurred
602 in the performance of their official duties at the rates established by the Division of Finance
603 under Sections 63A-3-106 and 63A-3-107.

604 (ii) Local government members may decline to receive per diem and expenses for their
605 service.

606 (9) (a) The commission shall annually designate one of its members to serve as chair of
607 the commission.

608 (b) The division shall provide a secretary to facilitate the function of the commission
609 and to record its actions and recommendations.

610 [~~(10) The duties and responsibilities of the commission are to:~~]

611 [~~(a) recommend to the director the:~~]

612 [~~(i) adoption by rule of codes and amendments under Subsections 58-56-4(2)(b) and
613 (c); and]~~

614 [~~(ii) approval by rule of the codes referenced in Subsection 58-56-4(4)(a);]~~

615 [~~(b) offer an opinion regarding the interpretation of or the application of any of the
616 codes adopted or approved under Section 58-56-4 upon a formal submission by a party to the~~

617 ~~matter in question which submission must clearly state the facts in question, the specific code~~
618 ~~citation involved and the position taken by all parties;]~~

619 ~~[(c) act as an appeals board as provided in Subsection 58-56-8(3);]~~

620 ~~[(d) establish advisory peer committees on either a standing or ad hoc basis to advise~~
621 ~~the commission with respect to matters related to the codes described in Section 58-56-4,~~
622 ~~including a committee to advise the commission regarding health matters related to the~~
623 ~~plumbing code; and]~~

624 ~~[(e) assist the division in overseeing code-related training in accordance with Section~~
625 ~~58-56-9.]~~

626 (10) The commission shall:

627 (a) in accordance with Section 58-56-4, make a report to the Business and Labor
628 Interim Committee by no later than November 30 of each year;

629 (b) ensure that the report includes recommendations as to whether or not the
630 Legislature should take legislative action, excluding any recommendations on the fire code;

631 (c) offer an opinion regarding the interpretation of or the application of an adopted
632 code, excluding the fire code, or an approved code if a party submits a request for an opinion;

633 (d) act as an appeals board as provided in Section 58-56-8;

634 (e) establish advisory peer committees on either a standing or ad hoc basis to advise the
635 commission with respect to matters related to an adopted code, excluding the fire code, or
636 approved code, including a committee to advise the commission regarding health matters
637 related to the plumbing code; and

638 (f) assist the division in overseeing code-related training in accordance with Section
639 58-56-9.

640 (11) A party requesting an opinion under Subsection (10)(c) shall submit a formal
641 request clearly stating:

642 (a) the facts in question;

643 (b) the specific code citation at issue; and

644 (c) the position taken by all parties.

645 Section 11. Section **58-56-6** is amended to read:

646 **58-56-6. Building codes -- Division duties and responsibilities.**

647 (1) The division shall administer the codes adopted or approved under Section 58-56-4

648 pursuant to this chapter, but ~~[shall have]~~ has no responsibility or duty to conduct inspections to
 649 determine compliance with the codes, issue permits, or assess building permit fees.

650 (2) Administration of the codes adopted or approved under Section 58-56-4 by the
 651 division shall include:

652 ~~[(a) receiving recommendations from the commission and thereafter adopting by rule~~
 653 ~~the editions of the codes and amendments to the codes under Subsections 58-56-4(2)(b) and~~
 654 ~~(c);]~~

655 ~~[(b) receiving recommendations from the commission and thereafter approving by rule~~
 656 ~~the code editions referenced in Subsection 58-56-4(4)(a);]~~

657 ~~[(c) maintaining and publishing for reference on a current basis the adopted~~
 658 ~~amendments to the codes under Subsection 58-56-4(2)(c); and]~~

659 ~~[(d) receiving requests for amendments and opinions from the commission;]~~

660 (a) scheduling appropriate hearings [and publishing the amendments to the codes and];

661 (b) maintaining, publishing for reference, and keeping the current adopted code,
 662 excluding the fire code, and approved code; and

663 (c) publishing the opinions of the commission with respect to interpretation and
 664 application of the codes.

665 Section 12. Section **58-56-7** is amended to read:

666 **58-56-7. Code amendments -- Commission recommendations -- Division duties**
 667 **and responsibilities.**

668 (1) (a) [The] Subject to Subsection (1)(b), the division, in consultation with the
 669 commission, shall establish by rule the procedure and manner under which requests for
 670 ~~[amendments to codes under Subsection 58-56-4(2)(c)]~~ legislative action to an adopted code
 671 shall be:

672 ~~[(a)]~~ (i) filed with the division; [and]

673 ~~[(b) recommended or declined for adoption;]~~

674 (ii) reviewed by the commission; and

675 (iii) recommended by the commission to the Business and Labor Interim Committee
 676 for legislative action in accordance with Section 58-56-5.

677 (b) Notwithstanding Subsection (1)(a), the board shall recommend legislative action to
 678 the fire code in accordance with Section 53-7-204.

679 (2) The division shall accept from any local regulators, state regulators, state agencies
680 involved with the construction and design of buildings, the contractors, plumbers, or
681 electricians licensing boards, or from recognized construction-related associations a request for
682 amendment to the codes under ~~[Subsection]~~ Section 58-56-4[(2)(c)].

683 (3) ~~(a) [The]~~ Except in the case of the fire code, the division may make
684 recommendations to the commission for [amendments to codes under Subsection
685 58-56-4(2)(c). The] legislative action.

686 (b) Except in the case of the fire code, the commission may also consider
687 [amendments] legislative action on its own initiative.

688 (4) (a) On May 15 and [November 15] October 15 of each calendar year, or the first
689 government working day [thereafter] after those dates if either date falls on a weekend or
690 government holiday, the division shall convene a public hearing, [as a part of the rulemaking
691 process;] before the commission concerning requests for [amendment of the codes,
692 recommended by the division and commission to be adopted by rule] legislative action to an
693 adopted code in accordance with Section 58-56-4.

694 (b) The hearing shall be conducted in accordance with the rules of the commission.

695 (5) The commission shall, after the hearing described in Subsection (4), make a written
696 report of recommended amendments to be included in the commission's report to the Business
697 and Labor Interim Committee under Section 58-56-5.

698 (6) In making rules required by this chapter, the division shall comply with Title 63G,
699 Chapter 3, Utah Administrative Rulemaking Act.

700 ~~[(5) Within 15 days following completion of the hearing under Subsection (4), the~~
701 ~~commission shall provide to the division a written recommendation concerning each~~
702 ~~amendment.]~~

703 ~~[(6) The division shall consider the recommendations and promulgate amendments by~~
704 ~~rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act and as~~
705 ~~prescribed by the director.]~~

706 ~~[(7) The decision of the division to accept or reject the recommendation of the~~
707 ~~commission shall be made within 15 days after receipt of the recommendation.]~~

708 ~~[(8) All decisions of the division pertaining to adoption of a code edition or~~
709 ~~amendments to any code, which are contrary to recommendations of the commission, may be~~

710 ~~overridden by a two-thirds vote of the commission according to a procedure to be established~~
711 ~~by rule.]~~

712 ~~[(9) (a) Amendments with statewide application:]~~

713 ~~[(i) shall be effective on the January 1 or July 1 following the public hearing or as soon~~
714 ~~after that date as the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking~~
715 ~~Act, are met; or]~~

716 ~~[(ii) may be effective prior to the dates in Subsection (9)(a)(i) if designated by the~~
717 ~~division and the commission as necessary for the public health, safety, and welfare.]~~

718 ~~[(b) Amendments with local application only shall be effective on a date to be~~
719 ~~determined by the division and the commission.]~~

720 ~~[(c) In making rules required by this chapter, the division shall comply with the~~
721 ~~provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act. The provisions of~~
722 ~~that chapter shall have control over this section in case of any conflict.]~~

Legislative Review Note
as of 2-18-09 6:19 AM

Office of Legislative Research and General Counsel

S.B. 211 - Building Code Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
