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An Introduction to Pennsylvania's Broken Building Codes System

Building codes ensure that our houses, office buildings, and commercial structures are safe, healthy, and energy efficient. Every new building or renovation must follow the codes when engineering and constructing important building characteristics like fire safety, electrical components, and energy conservation products. Yet, Pennsylvania has failed to update its building codes since 2009 creating significant challenges and missed opportunities throughout the Commonwealth.

A Quick Primer on the Building Code Process

These complex standards are adopted through a three-step process. The International Construction Code (ICC) - an independent body of building experts - drafts and reviews updated building codes every three years. The Pennsylvania Review and Advisory Committee (RAC) review these codes and recommends code revisions for adoption. Local municipalities then enforce these codes through building permits and construction inspections.

Act 45 of 1999 Streamlined Pennsylvania's Building Codes

Pennsylvania's modern building code adoption process was created in 1999. Act 45 of 1999 created the Uniform Construction Code (UCC) to standardize building codes across the state and ease the burden on municipalities to review and develop their own codes every few years. It created the RAC to review and recommend adoption of standardized codes through a simple majority vote.

In practice, Act 45 was a win-win. Commercial and residential builders have been able to do business across the Commonwealth under one standardized building code, which reduces costs and regulatory burden. And families and businesses were provided safer and healthier buildings because the UCC process ensured up-to-date codes adoption no matter the municipality.

Act 1 of 2011 Crippled the Building Code Process

In 2011, the General Assembly amended the building code adoption process, effectively breaking the streamlined process they created 12 years previously.

Act 1 of 2011 required that a two-third-majority vote of the RAC is needed to adopt each provision of the ICC building code update. As a result, the RAC has not been able to meet this super-majority requirement to adopt the 2012 and 2015 building codes, meaning new building construction across the Commonwealth are not using the most up-to-date safety, health, and efficiency standards. A two-third-majority is currently unreasonable because of the disproportionate representation of home builders on the RAC. While energy efficient homes cost much less to operate, the homebuilders are only impacted by the cost to build and price to sell - thus they have a vested interest in keeping initial costs low.

House Bill 568 Would Worsen the Building Code Adoption Process

The General Assembly is currently debating House Bill 568, an attempt to "fix" the broken building code process. Unfortunately, the bill is far from a solution and would instead make the building code adoption process worse in a number of ways. Specifically, House Bill 568:

- **Ensures that Pennsylvania will continue to build under 2009 codes through 2018.** House Bill 568 legislates that a modified version of the 2015 ICC codes will not be adopted until at least June 1, 2018, meaning Pennsylvania would not have updated its codes in nearly 10 years.
- **Delays code adoption by at least 4.5 years.** House Bill 568 ensures that Pennsylvania will always be at least one cycle behind an ICC code update. Specifically, it implements a 21-month delay period following the release of updated ICC codes. Following this delay period, the RAC has up to 24 months to submit a report to the Department of Labor and Industry with its review of the code updates. The Department then has 9 months to adopt the RAC's recommendations, which are then promulgated to municipalities.
- **Makes it increasingly difficult to adopt new codes in the future.** On its surface, House Bill 568 appears to make it easier to adopt future building code updates by categorizing provisions as either "opposed" or "unopposed." Unopposed provisions are automatically recommended for adoption and require a two-thirds majority vote to reject. Opposed provisions require a two-thirds majority vote to adopt. But the problem lies in how the bill defines unopposed and opposed provisions. Any provision is deemed "opposed" if any RAC committee member or member of the public objects and requests additional review by the RAC. This simple process to force a two-thirds majority vote ensures the same situation that grips the building codes process today will continue into the future. The fact is that any meaningful code changes will be in the "opposed" category which will require a two-thirds vote to be adopted.
- **Reinstates the Department of Labor and Industry's faulty interpretation of Act 1.** The Department of Labor and Industry offered the RAC an interpretation of Act 1 of 2011 that forbid the RAC from re-reviewing any code provisions that the RAC had previously considered. The effect of this interpretation meant that, during its review of the 2015 codes, the RAC could not review code changes proposed in 2009 and 2012. This further handcuffed the RAC from adopting meaningful changes from previous codes. The Department of Labor and Industry recently rescinded this interpretation after a legal challenge, but House Bill 568 will reinstate this "no look-back" interpretation and greatly limit the RACs capacity to update codes. Since each version of the codes from the ICC are not created in a vacuum, but instead builds on previous codes, this creates gaps and holes in the codes that make it exceedingly difficult to interpret and enforce.