

HOUSE BILL NO. 145

INTRODUCED BY J. SONJU

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BUILDING CODE ENFORCEMENT PROVISIONS FOR COUNTIES, CITIES, AND TOWNS CERTIFIED TO ENFORCE BUILDING CODES; REVISING PROVISIONS GOVERNING INSPECTIONS BY CERTIFIED COUNTIES, CITIES, AND TOWNS OF BUILDINGS OUTSIDE THEIR JURISDICTION; AMENDING SECTION 50-60-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-60-106, MCA, is amended to read:

"50-60-106. Powers and duties of counties, cities, and towns. (1) ~~The~~ As allowed by Title 50, chapter 60, part 3, the examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, ~~licenses~~, LICENSES, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the limits of a city or town are the responsibility of the city or town ~~of the state~~. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, ~~licenses~~, LICENSES, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code enforcement program are the responsibility of the county.

(2) Each county, city, or town certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or county, city, or town building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a

1 checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors
 2 who attach a completed checklist to the plans submitted for examination the relevant building permit or notice
 3 of plan disapproval within 10 working days of the contractor's submission;

4 (d) during and in the course of construction, order in writing the remedying of any condition found to exist
 5 in, on, or about any building that is being constructed in violation of the state building code or county, city, or town
 6 building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending
 7 by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the
 8 application for permission for the construction of the building. A ~~local building department~~ county, city, or town
 9 certified pursuant to 50-60-302, by action of ~~an authorized officer~~ its building official, may grant in writing time as
 10 may be reasonably necessary for achieving compliance with the order. For the purposes of subsection (2)(a) and
 11 this subsection (2)(d), the phrase "during and in the course of construction" refers to the construction of a building
 12 until all necessary building permits have been obtained and ~~the municipality or county has issued formal written~~
 13 ~~approvals or has issued a certificate of occupancy for the building~~ all work authorized by those permits has been
 14 fully approved by the building official having jurisdiction.

15 (e) issue certificates of occupancy as provided in 50-60-107;

16 (f) issue permits, ~~licenses,~~ LICENSES, and other required documents in connection with the construction
 17 of a building;

18 (g) ensure that all construction-related fees or charges imposed and collected by the ~~municipality or~~
 19 county, city, or town are necessary, reasonable, and uniform and are:

20 (i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists
 21 of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building
 22 codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying
 23 administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund,
 24 they must also be waived for the program established in this section. Indirect charges are limited to the charges
 25 that are allowed under federal cost accounting principles that are applicable to a local government.

26 (ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce
 27 building codes for 12 months. The excess must be placed in a reserve account and may ~~only~~ be used only for
 28 building code enforcement. Collection and expenditure of fees and charges must be fully documented.

29 (iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or
 30 charges collected, for the building codes education program established in 50-60-116.

1 (3) Each county, city, or town with a building code enforcement program that has been certified under
2 50-60-302 may, within the area of its jurisdiction:

3 (a) make, amend, and repeal rules for the administration and enforcement of the provisions of this
4 section and for the collection of fees and charges related to construction; and

5 (b) prohibit the commencement of construction until a permit has been issued by the ~~local building~~
6 ~~department~~ building code enforcement authority having jurisdiction after a showing of compliance with the
7 requirements of the applicable provisions of the state building code or county, city, or town building code or other
8 county, city, or town ordinance or resolution that pertains to the proposed construction; ~~and~~

9 ~~(c) enter into a private contract with the owner or builder of a building that is not or will not be within the~~
10 ~~jurisdiction of the county, city, or town under which the county, city, or town will provide reviews, inspections,~~
11 ~~orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. County, city, or~~
12 ~~town powers of enforcement may not be exercised.~~

13 (4) Each county, city, or town with a building code enforcement program that has been certified under
14 50-60-302 may perform inspections of buildings that are outside its jurisdictional limits, subject to the following
15 conditions:

16 (a) The inspections are requested in writing by the owners or builders of the buildings to be inspected.

17 (b) The inspections are not done in lieu of inspections by another county, city, or town that has
18 jurisdiction over the buildings to be inspected.

19 (c) (i) The county, city, or town powers of enforcement possessed as a result of building code
20 enforcement certification by the department may not be exercised in conjunction with the requested inspections.

21 (ii) Similar powers of building code enforcement may not be contractually created or required by the
22 requester and the inspecting jurisdiction.

23 (5) In situations in which buildings may be annexed into an inspecting city's or town's jurisdiction
24 subsequent to a requested inspection, the city or town may not require owners or builders to have duplicative
25 inspections of those buildings prior to annexation as a condition precedent to receiving any public services or
26 utilities."

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28 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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