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HOUSE BILL NO. 465

INTRODUCED BY J. KARLEN, G. NIKOLAKAKOS, K. ZOLNIKOV, A. BUCKLEY, D. FERN, T. FRANCE, C. SPRUNGER, P. TUSS, D. BAUM

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE USE OF CONSTRUCTION-RELATED FEES OR CHARGES THAT MAY BE IMPOSED BY A COUNTY, CITY, OR TOWN FOR ACTIVITIES IN SUPPORT OF THE ISSUANCE OF A BUILDING PERMIT; INCREASING THE RESERVE AMOUNT REQUIRED BEFORE CONSTRUCTION-RELATED FEES OR CHARGES MAY BE REDUCED; PROHIBITING THE DEPARTMENT OF LABOR AND INDUSTRY FROM ~~AUDITING~~ CONDUCTING CERTAIN AUDITS OF A COUNTY, CITY, OR TOWN BUILDING CODE ENFORCEMENT PROGRAM EXCEPT AS PART OF A FINANCIAL AUDIT; AND AMENDING SECTIONS 50-60-106 AND 50-60-302, MCA."

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) 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, 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. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, 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;

1 enforcement certification by the department may not be exercised in conjunction with the requested
2 inspections.

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

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

9

10 **Section 2.** Section 50-60-302, MCA, is amended to read:

11 **"50-60-302. Certification of county, city, or town building codes.** (1) A county, city, or town may
12 not enforce a building code unless:

13 (a) the code enforcement program has been certified by the department as in compliance with
14 applicable statutes and department certification rules;

15 (b) the current adopted code, a current list of fees to be imposed, and a current plan for
16 enforcement of the code have been filed with and approved by the department; and

17 (c) all inspectors inspecting or approving any installations, which if accomplished commercially
18 require state licensure, must themselves be properly and currently state-licensed as journeymen in that craft or
19 occupation or be certified by a nationally recognized entity for testing and certification of inspectors that is
20 approved by the department before being permitted to inspect or approve any installations.

21 (2) ~~(a) The~~ Subject to subsection (2)(b), the department shall adopt additional rules and standards
22 governing the certification of county, city, and town building code enforcement programs that must include
23 provisions for prompt revocation of certification for refusal or failure to comply with any applicable statute or
24 rule. The department may allow a county, city, or town a reasonable amount of time, not to exceed 6 months, to
25 correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate
26 threat to the public health, safety, or welfare, in which case the department may require immediate correction.
27 Failure to correct deficiencies within the time set by the department constitutes a basis for immediate
28 decertification of the code enforcement program. Continued operation of a county, city, or town code

1 enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a
2 writ of mandamus by a judge of the district court in the jurisdiction in which the county, city, or town is located.

3 (b)_____The rules and standards must include provisions for the department to ensure that all code
4 enforcement program functions are being properly performed. The rules may not require ~~an audit a financial~~
5 audit or a review of fees of a county, city, or town code enforcement program that is in addition to or separate
6 from an audit conducted under 2-7-503.

7 (3) If the certification of any local government code enforcement program is revoked for any
8 violation or deficiency, the state resumes its original jurisdiction for state building code enforcement within the
9 county, city, or town area and the local government retains the responsibility for completion of inspections and
10 issuance of certificates of occupancy on any incomplete construction projects previously permitted by the
11 county, city, or town, unless the reason for the decertification is directly related to the protection of health,
12 safety, and welfare of the public.

13 (4) If a county, city, or town voluntarily decertifies its code enforcement program, the department
14 must be given written notification of the intended decertification at least 90 days prior to the date of
15 decertification. The county, city, or town retains the responsibility for completion of inspections and issuance of
16 certificates of occupancy on any incomplete construction projects permitted by the county, city, or town prior to
17 decertifying its code enforcement program."

18 - END -