

ENROLLED SENATE
BILL NO. 1182

By: Brogdon, Jolley, Ballenger
and Coates of the Senate

and

Jordan of the House

An Act relating to municipalities, professions and occupations, public buildings and public works and state government; amending 11 O.S. 2001, Section 14-107, as last amended by Section 1 of Enrolled House Bill No. 1031 of the 1st Session of the 52nd Oklahoma Legislature, which relates to publication of certain codes and ordinances; modifying certain codes a municipality is required to adopt for building standards; creating the Oklahoma Uniform Building Code Commission Act; creating the Oklahoma Uniform Building Code Commission within the Construction Industries Board; providing for membership, appointment, qualifications, terms, succession, reappointment, vacancies, unexpired terms, removal and absences; providing for meetings, officers, quorum, and duties of chair, vice-chair and Chief Executive Officer; making the Commission subject to certain Acts; requiring certain bonds; providing for certain liability; providing for certain compensation; providing for powers and duties of the Commission; requiring Commission to set minimum standards for residential and commercial construction; requiring public projects and certain public entities to abide by certain minimum standards; authorizing the enactment and enforcement of certain higher standards and requirements; authorizing Commission to promulgate certain rules; providing for enforcement of the Act; providing for certain codes to be valid until certain other codes are adopted; providing powers and duties of the Commission; authorizing Commission to establish a

certain system of fees for certain permits under certain circumstances; providing for collection, deposit and remittance of such fees; requiring certain reports relating to fees; providing for imposition of certain late fee; authorizing certain fee by certain entities; providing for deposit and purpose of such fee; requiring certain report; stating purpose for certain funds collected; providing for employment, termination and duty of certain employee of Commission; providing for certain employees for Commission; authorizing certain temporary employees; making the Attorney General the legal advisor for the Commission and its employees; creating the Oklahoma Uniform Building Code Commission Revolving Fund; providing for appropriation, budgeting and expenditures of monies accruing to the Fund for certain purpose; clarifying that the Oklahoma Uniform Building Code Commission Act shall not prohibit certain entities from having certain authority under certain circumstances; amending 59 O.S. 2001, Sections 1000.4, as last amended by Section 11, Chapter 405, O.S.L. 2008, 1002, as last amended by Section 2, Chapter 4, O.S.L. 2008, 1020, as amended by Section 9, Chapter 318, O.S.L. 2003, 1681, and 1850.3 (59 O.S. Supp. 2008, Sections 1000.4, 1002 and 1020), which relate to the Construction Industries Board, The Plumbing License Law of 1955, the Electrical License Act and the Mechanical Licensing Act; modifying powers and duties of the Construction Industries Board; modifying certain rule-making authority of the Board relating to The Plumbing License Law of 1955; making certain local regulation consistent with the Oklahoma Uniform Building Code Commission Act; modifying certain rule-making authority of the Construction Industries Board relating to the Electrical License Act and the Mechanical Licensing Act and certain codes; amending 61 O.S. 2001, Section 209, as last amended by Section 31, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 209), which relates to the Director of Central Services; modifying certain rule-making authority relating to certain codes; amending 74 O.S.

2001, Sections 324.7, as amended by Section 8, Chapter 168, O.S.L. 2003, 324.8, as amended by Section 1, Chapter 119, O.S.L. 2005, 324.9, as amended by Section 2, Chapter 432, O.S.L. 2004 and 324,11, as amended by Section 1, Chapter 397, O.S.L. 2008 (74 O.S. Supp. 2008, Sections 324.7, 324.8, 324.9 and 324.11), which relate to the State Fire Marshal Commission and the State Fire Marshal; modifying certain rule-making authority of the Commission relating to certain codes; modifying authority of State Fire Marshal to investigate certain violations; requiring certain construction, alteration, issuance of certain permits, approval of certain plans and specifications and issuance of certain licenses to conform to certain codes; modifying certain guidelines for assisted living facilities; modifying definition; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 14-107, as last amended by Section 1 of Enrolled House Bill No. 1031 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 14-107. A. If a municipal governing body enacts or adopts by reference ordinances which are compilations or codes of law or regulations relating to traffic, building, plumbing, electrical installations, fire prevention, inflammable liquids, milk and milk products, protection of the public health, or any other matters which the municipality has the power to regulate, such ordinances are not required to be published in full. Legal publication of such ordinances may be by publishing the title and a summary of their contents in the manner provided by Section 14-106 of this title. At least one copy of such ordinances shall be kept in the office of the municipal clerk for public use, inspection, and examination. The municipal clerk shall keep copies of the

ordinances, codes, or compilations for distribution or sale at a reasonable price.

B. A municipality which adopts building standards shall adopt and enforce one of the following codes: adopted by the Oklahoma Uniform Building Code Commission.

~~1. The BOCA Basic Building Code of the Building Officials and Code Administrators International, Incorporated; or~~

~~2. The Uniform Building Code of the International Conference of Building Officials; or~~

~~3. The Southern Standard Building Code of the Southern Building Code Congress, International, Incorporated; or~~

~~4. The Code for Energy Conservation in New Building Construction prepared by the National Conference of States on Building Codes and Standards, Inc. (NCSBCS); or~~

~~5. The code of the International Code Council; or~~

~~6. Any other code which the governing body of the municipality deems desirable to promote safety, energy efficiency, health, and welfare within the municipality.~~

C. Municipalities may adopt the "New Jersey Smart Code" building standard for purposes of rehabilitation to existing structures that were completed prior to November 1, 1985. Nothing in this act shall prevent or take away from any city, town or county the authority to enact and enforce rules containing higher standards and requirements than the codes adopted by the Oklahoma Uniform Building Code Commission nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions except as provided in subsection D of this section.

D. A city, town or county may begin enforcing the higher standards and requirements allowed in subsection C of this section no less than thirty (30) days after submitting the higher standards and requirements to the Oklahoma Uniform Building Code Commission in such form as the Commission may prescribe.

E. Ordinances which are passed by the governing body with an emergency clause attached are not required to be published in full, but may be published by title only in the manner provided by Section 14-106 of this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 11 of this act shall be known and may be cited as the "Oklahoma Uniform Building Code Commission Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby created the Oklahoma Uniform Building Code Commission within the Construction Industries Board which shall consist of eleven (11) members, nine of whom shall be appointed by the Governor with the advice and consent of the Senate as follows:

- a. one member who is a general contractor from a statewide organization that represents residential construction,
- b. one member who is a general contractor from a statewide organization that represents commercial construction,
- c. one member who is a contractor from a statewide organization that represents electrical contractors,
- d. one member who is a contractor from a statewide organization that represents plumbing contractors,
- e. one member who is a contractor from a statewide organization that represents heating and cooling contractors,
- f. one member who is a local-level regulator/inspector who is a member of a statewide organization that is

exempt from taxation under federal law and designated pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 170(a), who has represented municipalities and had statutory functions for municipalities for at least fifteen (15) years prior to November 1, 2005,

- g. one member who is a Certified Building Official employed by a political subdivision,
- h. one member who is a licensed architect from a statewide organization that represents architects, and
- i. one member who is from the insurance industry with knowledge of building codes and experience in property loss mitigation.

2. Such members shall be appointed for terms of four (4) years; provided, of those members initially appointed to the Commission, three members shall be appointed for one (1) year, beginning July 1, 2009, two members shall be appointed for two (2) years, beginning July 1, 2009, two members shall be appointed for three (3) years beginning, July 1, 2009, and two members who shall be appointed for four (4) years, beginning July 1, 2009.

B. The remaining two members of the Commission shall be the State Fire Marshal, or a designee, and an appointee of the Construction Industries Board.

C. Appointed members shall continue in office until a successor is appointed by the Governor. No appointed member shall serve more than two consecutive terms; provided, such a member shall be eligible to be reappointed after a two-year absence from the Commission. The Governor shall fill all vacancies and unexpired terms in the same manner as the original appointment of the member whose position is to be filled. Such members may be removed by the Governor for cause.

D. Whenever a member of the Commission is absent from more than one-half of all meetings of the governing body, regular and special, held within any period of twelve (12) consecutive months, the member shall thereupon cease to hold office by operation of law.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

1. The Oklahoma Uniform Building Code Commission shall organize immediately after July 1, 2009, and annually thereafter, by electing from among its members a chair and a vice-chair. The Commission shall hold regularly scheduled meetings at least once each quarter at a time and place determined by the Commission and may hold such special meetings, emergency meetings or continued or reconvened meetings as found by the Commission to be necessary. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

2. The chair shall preside at meetings of the Commission, set the agenda, sign orders and other required documents, coordinate Commission activities and perform such other duties as may be prescribed by the Commission.

3. The vice-chair shall perform the duties of the chair during the absence or disability of the chair and shall perform such other duties as may be prescribed by the Commission.

4. The Oklahoma Uniform Building Code Commission Chief Executive Officer, at the discretion of the Commission, shall:

- a. keep a record of all proceedings of the Commission and certify to actions of the Commission,
- b. oversee the receipt and deposit of all monies received by the Commission in the appropriate revolving funds,
- c. submit, at the first regular meeting of the Commission after the end of each fiscal year, a fully itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand, and
- d. perform such other duties as are prescribed in this act or as may be prescribed by the Commission.

5. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

6. All members of the Commission and such employees as determined by the Commission shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

7. The liability of any member or employee of the Commission acting within the scope of Commission duties or employment shall be governed by The Governmental Tort Claims Act.

8. Members of the Oklahoma Uniform Building Code Commission and members of all technical committees shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Uniform Building Code Commission shall have the power and the duty to review and adopt all building codes for residential and commercial construction to be used by all entities within this state. Codes and standards adopted by the Commission shall be the minimum standards for residential and commercial construction in this state.

B. All public projects shall abide by such minimum standards and requirements; provided, nothing in this act shall prevent or take away from state agencies the authority to enact and enforce requirements containing higher standards and requirements than such minimum standards and requirements.

C. Municipalities and other political subdivisions shall abide by such minimum standards and requirements; provided, nothing in this act shall prevent or take away from such municipalities and other political subdivisions the authority to enact and enforce requirements containing higher standards and requirements than such minimum standards and requirements.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.24 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Beginning July 1, 2009, pursuant to and in compliance with Article I of the Administrative Procedures Act, the Oklahoma Uniform Building Code Commission shall have the power to adopt, amend, repeal and promulgate rules as may be necessary to perform the duties required under the Oklahoma Uniform Building Code Commission Act. Rules authorized under this section shall not become effective prior to October 1, 2009.

2. Beginning October 1, 2009, the Commission shall have the power to enforce the provisions of the Oklahoma Uniform Building Code Commission Act.

3. Any codes adopted by state agencies, municipalities or other political subdivisions of the state prior to uniform codes being adopted by the Oklahoma Uniform Building Code Commission, pursuant to the provisions of, or rules promulgated pursuant to, the Oklahoma Uniform Building Code Commission Act, shall be considered valid and in effect until uniform codes are adopted by the Oklahoma Uniform Building Code Commission.

B. The Oklahoma Uniform Building Code Commission shall have the following powers:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of the Oklahoma Uniform Building Code Commission Act;

2. Adopt and have an official seal;

3. Maintain an administrative staff, including, but not limited to, an Oklahoma Uniform Building Code Commission Chief Executive Officer;

4. Direct such other expenditures as may be necessary in the performance of its duties, including, but not limited to, expenditures for office space, equipment, furnishings and contracts for services. All expenditures shall be made pursuant to the Oklahoma Central Purchasing Act;

5. Appoint technical committees to review and recommend for adoption all building codes. The technical committees shall review and recommend building codes with any amendments for adoption by the Commission; and

6. Create a website listing all building codes adopted by the Commission. The website shall provide a method for listing all codes adopted by a state agency, city or any other political subdivision of the state containing higher standards and requirements than the codes adopted pursuant to the Oklahoma Uniform Building Code Commission Act as required in Section 14-107 of Title 11 of the Oklahoma Statutes.

C. After October 1, 2009, the Commission shall account for all receipts and expenditures of the monies of the Commission, including annually preparing and publishing a statement of receipts and expenditures of the Commission for each fiscal year. The Commission's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the chair and vice-chair of the Commission.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Uniform Building Code Commission shall establish a system of fees to be charged for the issuance and renewal of any construction permits issued by any agency, municipality, or other political subdivision of this state.

B. This provision is subject to the following limitations:

1. No schedule of fees may be established or amended by the Commission except during such times as the Legislature is in session; provided, the Commission may establish or amend a schedule of fees at a time when the Legislature is not in session if the fees or schedule of fees has been specifically authorized by the Legislature pursuant to paragraphs 2 and 3 of this subsection. The Commission must follow the procedures required by Article I of the

Administrative Procedures Act for adoption of rules in establishing or amending any such schedule of fees;

2. The Commission shall charge fees for building permits and renewal of such permits issued by any state agency, municipality, or other political subdivision of this state which authorized work governed by codes within the purview of the Commission only within the following ranges:

For issuance of permit	not to exceed \$5.00
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For renewal of permit	not to exceed \$5.00
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3. Such fees shall be collected by any state agency, municipality or other political subdivision issuing construction permits within this state. The fees shall be deposited in an account created by the collecting entity for that purpose;

4. The state agency, municipality or other political subdivision shall remit the monies in the account on a monthly basis directly to the State Treasury for deposit in the Oklahoma Uniform Building Code Commission Revolving Fund created pursuant to Section 10 of this act. Along with the deposits required by this paragraph, each state agency, municipality or other political subdivision shall also submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding month. The report shall be made on computerized or manual disposition reports as provided by rule of the Commission;

5. Deposits to the Oklahoma Uniform Building Code Commission Revolving Fund shall be due on the twentieth day of each month for the fees collected during the preceding calendar month. There shall be a late fee imposed for failure to make timely deposits. The Oklahoma Uniform Building Code Commission, in its discretion, may waive all or part of the late fee. Such late fee shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the late fee reaches one hundred percent (100%) of the principal amount due;

6. Any state agency, municipality or other political subdivision collecting and remitting fees pursuant to this section may levy a fee up to fifty cents (\$.50) for every construction

permit or renewal permit issued. These monies shall be deposited into an account for the sole use of the state agency, municipality or other political subdivision. The state agency, municipality or other political subdivision shall state the total amount of funds collected and the total number of fees imposed to the State Treasury in the report required by paragraph 4 of this section;

7. It shall be the responsibility of the state agency, municipality or other political subdivision to account for and ensure the correctness and accuracy of payments made to the State Treasury pursuant to this title; and

8. Funds collected by a state agency, municipality or other political subdivision and remitted to the State Treasury pursuant to the Oklahoma Uniform Building Code Commission Act shall be deposited in the Oklahoma Uniform Building Code Commission Revolving Fund and shall be used solely for the purposes of the Oklahoma Uniform Building Code Commission Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No later than August 15, 2009, and thereafter, each time the position becomes vacant, the Oklahoma Uniform Building Code Commission shall hire an Oklahoma Uniform Building Code Commission Chief Executive Officer. The Commission may, upon a majority vote, terminate the employment of the Oklahoma Uniform Building Code Commission Chief Executive Officer.

B. The Oklahoma Uniform Building Code Commission Chief Executive Officer shall assist the Commission in the performance of its duties and shall report directly to the Commission.

C. Commission employees shall be hired by and subject to the supervision and control of the Chief Executive Officer or designee. All employees are employees of the State of Oklahoma and shall be in the unclassified service.

D. The Chief Executive Officer is authorized to employ temporary workers or contract labor as may be prudent to properly administer the Oklahoma Uniform Building Code Commission Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.27 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Attorney General shall be the legal advisor for the Oklahoma Uniform Building Code Commission; and the Oklahoma Uniform Building Code Commission Chief Executive Officer and shall appear for and represent the Commission, the Chief Executive Officer and any deputies or agents in any and all litigation that may arise in the discharge of their respective duties.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.28 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Uniform Building Code Commission to be designated the Oklahoma Uniform Building Code Commission Revolving Fund. The fund shall be a continuous fund, not subject to fiscal year limitations, and shall consist of all fees or payments of any type received by the Commission. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission for the purpose of implementing the Oklahoma Uniform Building Code Commission Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.29 of Title 59, unless there is created a duplication in numbering, reads as follows:

Nothing in the Oklahoma Uniform Building Code Commission Act shall prohibit state agencies or political subdivisions of the state from having full authority to provide for the enactment of codes and rules in such form as they may determine and prescribe; provided, that such code, ordinance, bylaw or rule shall contain higher standards and requirements than the codes adopted pursuant to the Oklahoma Uniform Building Code Commission Act, or any rule adopted or prescribed by the Oklahoma Uniform Building Code Commission through authority of Oklahoma Uniform Building Code Commission Act,

nor shall it prevent or take away from any state agencies or political subdivisions of the state the authority to amend such adopted codes to make changes necessary to accommodate local conditions; provided, such changes shall be approved by the Commission.

SECTION 12. AMENDATORY 59 O.S. 2001, Section 1000.4, as last amended by Section 11, Chapter 405, O.S.L. 2008 (59 O.S. Supp. 2008, Section 1000.4), is amended to read as follows:

Section 1000.4 A. 1. Beginning September 1, 2001, pursuant to and in compliance with Article I of the Administrative Procedures Act, the Construction Industries Board shall have the power to adopt, amend, repeal, and promulgate rules as may be necessary to regulate the plumbing, electrical and mechanical trades, building and construction inspectors and, beginning November 1, 2008, home inspectors. Rules authorized under this section shall not become effective prior to January 1, 2002.

2. Beginning January 1, 2002, the Board shall have the power to enforce the provisions of the Construction Industries Board Act, The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act and, beginning November 1, 2008, the Home Inspection Licensing Act.

3. In addition to rules promulgated by the Construction Industries Board, rules promulgated by the State Board of Health prior to January 1, 2002, shall be the rules of the Construction Industries Board and shall continue in effect until such rules are amended or repealed by rules promulgated by the Construction Industries Board.

4. Any order made or action taken prior to January 1, 2002, by the State Board of Health, the State Department of Health, or the State Commissioner of Health pursuant to the provisions of, or rules promulgated pursuant to, The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act or, any order made or action taken prior to November 1, 2008, pursuant to the Home Inspection Licensing Act, shall be considered valid and in effect unless rescinded by the Construction Industries Board.

B. The Board shall have the following powers:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act and the Home Inspection Licensing Act;

2. Serve as a code variance and appeals board for the trades and industries it regulates which do not have statutory code variance and appeals boards;

3. Order or subpoena the attendance of witnesses, the inspection of records and premises, and the production of relevant books and papers for the investigation of matters that may come before the Board;

4. Initiate disciplinary proceedings, request prosecution of and initiate injunctive proceedings against any person who violates any of the provisions of the Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act and the Home Inspection Licensing Act;

5. Maintain an administrative staff including, but not limited to, a Construction Industries Administrator whose appointment shall be made as provided in Section 1000.6 of this title;

6. Establish and levy administrative fines against any person or entity denying the Board or its representatives access to a job site for purposes of enforcing any of the provisions of the Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, and the Mechanical Licensing Act; ~~and~~

7. Direct such other expenditures as may be necessary in the performance of its duties including, but not limited to, expenditures for office space, equipment, furnishings and contracts for legal services. All expenditures shall be made pursuant to the Oklahoma Central Purchasing Act; and

8. Enforce provisions of the plumbing, electrical and mechanical codes as adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

C. After July 1, 2004, the Board shall account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each fiscal year. The Board's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the chair and vice-chair of the Board.

D. Effective January 1, 2002, all powers, duties, responsibilities, employees, records, and equipment of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of the plumbing, electrical and mechanical trades, building and construction inspectors and, beginning November 1, 2008, home inspectors shall be placed under the authority of the Construction Industries Board. To the extent practicable, this shall include all computer hardware and software used in regulating industries listed in this section. Until July 1, 2004, the State Department of Health shall provide all necessary administrative support, including, but not limited to, office space, equipment, furnishings, and legal staff support for the Board and may manage the Board's funds, subject to Board approval. The Construction Industries Board may contract for additional legal and administrative services as necessary, pursuant to the Central Purchasing Act. Employees shall be under the direction of the Construction Industries Administrator and the Construction Industries Board.

E. The Construction Industries Board and the State Board of Health may enter into an agreement for the transfer of personnel into the unclassified service under the direction of the Construction Industries Board effective January 1, 2002, and for personnel exclusively related to the regulation of home inspectors, effective November 1, 2008. No employee shall be transferred into the unclassified service under the direction of the Construction Industries Board except on the freely given written consent of the employee. All classified employees under the Merit System of Personnel Administration who are not transferred into the unclassified service as provided shall retain the status in the class occupied by the employee on July 1, 2001, and for personnel exclusively related to the regulation of home inspectors, occupied

by the employee on November 1, 2008, as allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation. Employees who are transferred as provided shall not be required to accept a lesser grade or salary than that in effect on July 1, 2001, and for personnel exclusively related to the regulation of home inspectors, than that in effect on November 1, 2008. All employees shall retain leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during their tenure in the classified service. The transfer of personnel shall be coordinated with the Office of Personnel Management.

SECTION 13. AMENDATORY 59 O.S. 2001, Section 1002, as last amended by Section 2, Chapter 4, O.S.L. 2008 (59 O.S. Supp. 2008, Section 1002), is amended to read as follows:

Section 1002. A. The Construction Industries Board is hereby authorized, empowered, and directed to make, prescribe, enforce, amend, and repeal rules governing the following:

1. The examination and licensing of persons desiring or intending to engage in the business, trade or calling of plumbing contractor or journeyman plumber;
2. The registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice;
3. The establishment and levying of administrative fines;
4. The initiation of disciplinary proceedings;
5. The requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of The Plumbing License Law of 1955 or any rule promulgated pursuant to The Plumbing License Law of 1955;
6. The establishment of minimum standards of plumbing installation ~~through the adoption of standards published by a recognized code body;~~ and
7. The establishment of bonding and insurance requirements for the issuance of a license as a plumbing contractor; provided, such

rules shall not be inconsistent with the terms and conditions hereinafter provided.

B. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality, provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed by the contractor prior to the commencement of any plumbing work with any municipality in which the licensee does work if required by local ordinances or rules.

SECTION 14. AMENDATORY 59 O.S. 2001, Section 1020, as amended by Section 9, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2008, Section 1020), is amended to read as follows:

Section 1020. Nothing in The Plumbing License Law of 1955 shall prohibit cities and towns from having full authority to provide full supervision and inspection of plumbing by the enactment of codes and rules in such form as they may determine and prescribe; provided, that no such ordinances, bylaw or rule shall be inconsistent with the Oklahoma Uniform Building Code Commission Act or any rule adopted or prescribed by the Oklahoma Uniform Building Code Commission, The Plumbing License Law of 1955, or any rule adopted or prescribed by the Construction Industries Board through authority of The Plumbing License Law of 1955 and the provisions of the Construction Industries Board Act. Each state-licensed master plumber or plumbing contractor shall be required to register with the plumbing inspector of every city and town in whose jurisdiction the plumber operates, and each such city or town is hereby authorized to register such master plumber or plumbing contractor to revoke the same, to charge fees for such registration, for permits and for inspections of plumbing and fixtures. Provided, further, that no master plumber or plumbing contractor shall be permitted to do business or work in any city or town wherein the local registration of the plumber has been revoked.

SECTION 15. AMENDATORY 59 O.S. 2001, Section 1681, is amended to read as follows:

Section 1681. The Construction Industries Board is hereby authorized to adopt, amend and repeal rules governing the examination and licensing of electrical contractors and journeymen electricians, the defining of categories and limitations for such licenses, the establishment of continuing education requirements and procedures as determined by the Committee of Electrical Examiners, the establishment and levying of administrative fines, the initiation of disciplinary proceedings, the requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of the Electrical License Act or any rule promulgated pursuant to the Electrical License Act, the establishment of bonding and insurance requirements precluding municipal requirements, the requirement of proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Board identification number, the registration of electrical apprentices and the standard of electrical installations, ~~and to adopt future editions of the Code.~~ Provided, broiler houses will not be required to meet the electrical wiring requirements for environmentally controlled poultry houses as set out in the National Electric Code.

SECTION 16. AMENDATORY 59 O.S. 2001, Section 1850.3 is amended to read as follows:

Section 1850.3 The Construction Industries Board shall have the power and duty to:

1. Promulgate, prescribe, amend, and repeal rules necessary to implement the provisions of the Mechanical Licensing Act including, but not limited to, defining categories and limitations for such licenses and for registration of apprentices, and establishing bonding and insurance requirements precluding municipal requirements; and

2. ~~Adopt standards for mechanical work, by reference, published by a recognized code body; and~~

~~3.~~ Establish minimum standards of mechanical installations in this state.

SECTION 17. AMENDATORY 61 O.S. 2001, Section 209, as last amended by Section 31, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 209), is amended to read as follows:

Section 209. The Director of Central Services shall promulgate rules:

1. For state agencies to perform minor construction projects;
2. Specifying building codes pursuant to the Oklahoma Uniform Building Code Commission Act for construction projects;
3. Permitting state agencies who have the expertise, upon written application to the Construction and Properties Division of the Department of Central Services, to perform any part of the responsibilities of the Division pursuant to the provisions of the Public Building Construction and Planning Act for a specific project;
4. Specifying procedures and guidelines for the implementation of shared savings financing by state agencies;
5. Specifying energy conservation performance guidelines, for conducting a life cycle cost analysis of alternative architectural and engineering designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned or leased structures and for developing energy performance indices to evaluate the efficiency of energy utilization for completing designs in the construction of state-financed and leased structures;
6. The time, manner, authentication, and form of making requisitions to the Division;
7. The form and manner of submission for bids or proposals and the manner of accepting and opening bids or proposals that may include online bids pursuant to the Oklahoma Online Bidding Act;
8. The manner for a state agency to acquire services for construction projects not exceeding the amount for which competitive bids are required pursuant to Section 102 of this title;

9. Conditions under which any of the rules herein authorized may be waived;

10. The form of any document the Director requires;

11. Specifying provisions the Division of a state agency shall follow to adhere to acquisition, contract, contract management and other provisions of this title; and

12. Specifying the process a state agency shall follow to establish the scope of work, schedule and cost estimate for all publicly bid construction projects involving construction or renovation of buildings. This requirement shall not apply to project planning work performed by a state agency which employs an architect pursuant to other provisions of this act.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 324.7, as amended by Section 8, Chapter 168, O.S.L. 2003 (74 O.S. Supp. 2008, Section 324.7), is amended to read as follows:

Section 324.7 A. Except as otherwise specified by subsection B of this section, the State Fire Marshal Commission shall have the power and duty to prescribe, adopt, and promulgate, in the manner set forth in this act, such reasonable rules, regulations, or specifications ~~consistent with nationally recognized codes, standards, or practices~~ on matters relating to the safeguarding of life and property from the hazards of fire and explosion arising from storage, handling, and use of flammable and combustible materials, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, as are deemed just and reasonable and in accordance with ~~nationally recognized standards~~ the codes as last adopted by the Oklahoma Uniform Building Code Commission, and not inconsistent with this act, and to revoke, amend, or supersede the same. ~~For the purpose of this act, standards published by the National Fire Protection Association shall be deemed as meeting the intent of this act.~~ Exceptions to these standards shall be granted to detention and correction facilities in existence on November 1, 1985, when noncompliance would not result in a life-threatening condition to inmates incarcerated in such facilities. All such rules, regulations, and specifications or any revisions or amendments thereto shall not

become effective until promulgated in accordance with the provisions of the Administrative Procedures Act.

B. 1. Liquefied petroleum gas defined by Section 420.1 of Title 52 of the Oklahoma Statutes shall be regulated by the Oklahoma Liquefied Petroleum Gas Board.

2. Flammable liquids stored in tanks at service stations shall be regulated by the Corporation Commission.

C. For the purpose of this section:

1. "Flammable liquids" means all petroleum products used as motor fuel and all grades of gasoline, kerosene, diesel fuel and aviation fuel having a vapor pressure not exceeding forty (40) pounds per square inch absolute at one hundred (100) degrees Fahrenheit;

2. "Service station" means any facility including but not limited to businesses serving the public, marinas and airports where flammable liquids are stored in aboveground tanks and dispensed for retail sales into the fuel tanks of airplanes, vessels or motor vehicles of the public; and

3. "Aboveground tank" means any stationary vessel at a service station and is located above the surface of the ground or on the ground which is designed to contain an accumulation of flammable liquids and which is constructed of nonearthen materials that provide structural support.

SECTION 19. AMENDATORY 74 O.S. 2001, Section 324.8, as amended by Section 1, Chapter 119, O.S.L. 2005 (74 O.S. Supp. 2008, Section 324.8), is amended to read as follows:

Section 324.8 The rules promulgated pursuant to Section 324.1 et seq. of this title shall have uniform force and effect throughout the state and no municipality or subdivision shall enact or enforce any ordinances, rules for construction of or major alterations to buildings with standards ~~either less stringent than the Building Officials and Code Administrators (BOCA) National Building Code building code, as last adopted by the State Fire Marshal Oklahoma Uniform Building Code Commission,~~ except that a municipality or

~~subdivision which requires permits for construction of or major alterations to buildings may elect to adopt, by ordinance, a renovation code for existing buildings approved by the Office of the State Fire Marshal as an equivalent code to the existing building provisions of the state-adopted building code, or any other recognized national building code, in lieu of the Building Officials and Code Administrators (BOCA) National Building Code. Provided, nothing in this act shall prevent or take away from any city, town or county, the authority to enact and enforce rules containing higher standards and requirements than those provided herein nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions. And provided further, that nothing in this act shall in any way impair the power of any municipality, county or subdivision to regulate the use of land by zoning, building codes or restricted fire district regulations. And provided further, that this act shall not apply to municipalities that have adopted a national building code recognized in Section 14-107 of Title 11 of the Oklahoma Statutes.~~

SECTION 20. AMENDATORY 74 O.S. 2001, Section 324.9, as amended by Section 2, Chapter 432, O.S.L. 2004 (74 O.S. Supp. 2008, Section 324.9), is amended to read as follows:

Section 324.9 A. The State Fire Marshal or deputies of the State Fire Marshal may make investigations to determine the origin and cause of fires, explosions, or suspected arson, and violations of other related laws and codes. The State Fire Marshal and the agents of the State Fire Marshal shall be peace officers and have and exercise all the powers and authority of other peace officers, with responsibility for the enforcement of statutes relating to the State Fire Marshal. This shall include the authority to enforce, issue citations for violations of state and city-adopted codes, and make arrests for felony offenses relevant to the duties of the State Fire Marshal. All reports and all results of investigations relevant to the State Fire Marshal statutes shall be available and shall be freely interchanged between the Office of the State Fire Marshal and the Oklahoma State Bureau of Investigation.

B. The State Fire Marshal Commission may establish fees, fines, and administrative penalties for inspections, plan reviews, and permits as provided in the adopted codes of the Commission, as long

as the fees, fines, and administrative penalties do not conflict with any applicable state law. All fees, fines, and administrative penalties shall be adopted in accordance with the Administrative Procedures Act.

SECTION 21. AMENDATORY 74 O.S. 2001, Section 324.11, as amended by Section 1, Chapter 397 O.S.L. 2008 (74 O.S. Supp. 2008, Section 324.11), is amended to read as follows:

Section 324.11 A. No person, firm, corporation, partnership, organization, city, town, school district, county or other subdivision of government shall commence the construction or major alteration of any buildings or structures to be used as schools, hospitals, churches, asylums, theaters, meeting halls, hotels, motels, apartment houses, rooming houses, rest homes, nursing homes, day nurseries, convalescent homes, orphanages, auditoriums, assisted living facilities, dormitories, factories, stadiums, or warehouses, including all defined occupancies within these groups, or install original equipment for the operation or maintenance thereof without obtaining a permit. Said permit, for which a charge may be made in conformity with the local ordinance, except as limited herein as to governmental agencies, shall be obtained from the city, town or county in whose jurisdiction the construction or alteration is planned.

B. All such construction or alteration so planned shall conform to the applicable provisions of the BOCA National Building Code building code, as last revised, ~~the Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), the International Building Code~~, except that in the event any city, town or county having jurisdiction to issue such permit has adopted by ordinance one of the other building codes designated in Section 324.8 of this title, then such construction or alteration shall conform to such other code so adopted adopted by the Oklahoma Uniform Building Code Commission.

C. Application for such building permit shall be made to, and such building permit shall be issued by, any city, town or county in whose jurisdiction the construction or alteration is planned. The city, town or county may require the submission of plans and specifications covering the proposed construction or alteration and may refuse to issue such permit unless the work so planned is in

accordance with the applicable provisions of the city, town or county's building code. In all geographical areas wherein no such permit is required by local authorities such permit must be obtained from the State Fire Marshal, who may require the submission of plans and specifications covering the proposed construction or alteration, and shall refuse to issue such permit unless the work so planned is in accordance with the applicable provisions of ~~said BOCA National Building Code~~ the building code, as last revised, ~~the Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), or the International Building Code adopted by the Oklahoma Uniform Building Code Commission;~~ provided, that the foregoing provisions of this sentence shall not apply to locations in any geographical area that are owned or operated by a state beneficiary public trust or have been purchased or leased from a state beneficiary public trust.

D. Nothing in this act shall be construed as repealing any ordinance of any city, town or county requiring the submission to the local authorities of plans and specifications and the obtaining of permits, but the power or authority of any such city, town or county to levy or assess any charge for such permit or to make and enforce requirements prerequisite to the issuance of such permit, other than requiring compliance with such building code, shall, as to governmental agencies, be limited as hereinafter set forth.

E. No city, town or county requested to issue any such permit to any city, town, school district, county or other subdivision of government shall charge, assess or collect any fee or other charge for such permit except the regular and customary inspection fees fixed by ordinance for inspection of the work to be done under such permit, and no other charge, fee or other conditions of any kind under the authority of this title shall be made a condition of or prerequisite to the obtaining of such permit by any such governmental agency.

F. No bids may be let for the construction or major alteration of any correctional facility as defined by Section 317 of this title until plans and specifications for such construction or alteration have been submitted to the State Fire Marshal for approval. The State Fire Marshal shall approve said plans and specifications if the work so planned conforms with the applicable provisions of the ~~BOCA National Building Code~~ building code, as last revised, ~~the~~

~~Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), or the International Building Code adopted by the Oklahoma Uniform Building Code Commission.~~

G. 1. Notwithstanding anything to the contrary in the ~~International Fire Code~~ fire code and/or ~~International Building Code building code~~, as last adopted by the Oklahoma Uniform Building Code Commission, all facilities to be licensed as assisted living facilities, or additions to existing assisted living facilities, constructed after November 1, 2008, shall be constructed with the guidelines of the I-II building ~~code~~ occupancies if at any time in their operation they house residents who are not capable of responding to emergency situations without physical assistance from staff of the facility or are not capable of self preservation.

2. Assisted living facilities licensed prior to the effective date of this act may house residents who are not capable of responding to emergency situations without physical assistance from the staff or are not capable of self preservation under the following conditions: As part of the annual licensure renewal process, the facility shall disclose if any residents who reside in the facility are not capable of responding to emergency situations without physical assistance from staff or are not capable of self preservation, and the facility shall be required to install fire sprinkler protection and an alarm system within the facility in accordance with the building guidelines set forth in the building code for I-II facilities.

3. For purposes of this subsection:

- a. the term "assisted living center" shall include an assisted living center licensed as such by the State Department of Health and the assisted living center component of a continuum care facility licensed by the State Department of Health, and
- b. the terms ~~"International Fire Code" and "International Building Code"~~ fire code and building code shall be deemed to include:

- (1) any and all appendices, commentary, amendments and supplements to, and replacements or restatements of the Codes, and
- (2) any and all other laws, ordinances, regulations, codes or standards pertaining to assisted living center construction, occupancy and maintenance for the protection of lives and property from fire.

SECTION 22. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 20th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2009.

Presiding Officer of the House
of Representatives