

RESOLUTION

No. 2010 / 09 / 01

To the Honorable Melville Bailey, Chairman and Members of the Hawkins County Board of Commissioners in Regular Session, met this 27 day of September, 2010.

RESOLUTION IN REF: APPOINTMENT OF MELVILLE BAILEY AS CHAIRMAN OF COUNTY COMMISSION

WHEREAS, the Chairman of the Hawkins County Commission is now due for appointment. Melville Bailey is County Mayor and is qualified to serve.

THEREFORE, BE IT RESOLVED THAT Melville Bailey, County Mayor, be appointed as Chairman of the County Commission and his term be from September 27, 2010 until the fourth Monday in September 2011.

Introduced by Esq. Virgil Mallet

Seconded By Esq. _____

Date Submitted 9/13/10

A. Canoll Jenkins
COUNTY CLERK

BY: _____

ACTION:	AYE	NAY	PASSED
Roll Call	_____	_____	_____
Voice Vote	_____	_____	_____
Absent	_____	_____	_____
	COMMITTEE ACTION		

CHAIRMAN: _____

RESOLUTION

No. 2010 / 09 / 02

To the HONORABLE Melville Bailey, Chairman, and Members of the Hawkins County Board of Commissioners in Regular Session, met this 27th day of September, 2010.

RESOLUTION IN REF: APPOINTMENT OF CHAIRMAN PRO-TEMPORE OF COUNTY COMMISSION GARY HICKS

WHEREAS, the office of Chairman Pro-Tempore of the Hawkins County Commission is due to be filled. Commissioner Gary Hicks has the qualifications to carry out the duties of this office.

THEREFORE, BE IT RESOLVED that Gary Hicks be appointed as Chairman Pro-Tempore of the Hawkins County Commission beginning September ~~28~~⁷, 20~~10~~¹⁰ until the fourth Monday in September 201~~0~~.

Introduced by Esq. Bob Palmer

Seconded By Esq. _____

Date Submitted 9/13/10

A. Carroll Jenkins
COUNTY CLERK

BY: _____

CHAIRMAN: _____

ACTION:	AYE	NAY	PASSED
Roll Call	_____	_____	_____
Voice Vote	_____	_____	_____
Absent	_____	_____	_____
COMMITTEE ACTION			

RESOLUTION

No. 2010/ 09 / 03 _____

To the HONORABLE Melville Bailey, Chairman, and Members of the Hawkins County Board of Commissioners in Regular Session, met this 27th day of September, 2010.

RESOLUTION IN REF: NOMINATION OF DWIGHT CARTER AS CHAPLAIN FOR HAWKINS COUNTY BOARD OF COMMISSIONERS

WHEREAS, Commissioner Boyd Goodson had served as the official chaplain for the Legislative Body of Hawkins County for several years and chose to not run for re-election on the August 5, 2010 ballot; and

WHEREAS, now that there is no one filling this position Commissioner Dwight Carter is being nominated as the official Chaplain for the Hawkins County Legislative Body.

THEREFORE, BE IT RESOLVED THAT approval be given for Dwight Carter to serve as the official chaplain for Hawkins County Board of Commissioners for a term beginning September 27 and ending August 31, 2011.

Introduced by Esq. Virgil Mallett

Seconded By Esq. _____

Date Submitted 9/13/10 _____

D. Carroll Jenkins
COUNTY CLERK

BY: _____

CHAIRMAN: _____

ACTION:	AYE	NAY	PASSED
Roll Call	_____	_____	_____
Voice Vote	_____	_____	_____
Absent	_____	_____	_____
COMMITTEE ACTION			

RESOLUTION

No. 2010/09/04

To the HONORABLE MELVILLE BAILEY, Chairman, and Members of the Hawkins County Board of Commissioners in Regular Session, met this 27th day of September 2010.

RESOLUTION IN REFERENCE: NEW LANDFILLS /EXISTING LANDFILL EXPANSIONS IN HAWKINS COUNTY.

WHEREAS, Allied Waste is currently receiving approved types of waste from other counties and from other states: and

WHEREAS, the current landfill is one of only four counties in the entire state of Tennessee accepting Nuclear Waste: and

WHEREAS, the local community families have been annoyed by the traffic, the odors, the dust and the noise associated with the operation of the facility: and

WHEREAS, the geology of much of Hawkins County is not conducive to the location of landfills and in order to shield the taxpayers of Hawkins County from exorbitant transportation cost and tipping fees we need to act now.

THEREFORE BE IT RESOLVED THAT; The provisions of TCA: 68-211-701 (copy attached) be approved by a vote of two-thirds in the affirmative.

BE IT FURTHER RESOLVED THAT: No solid waste or other category of waste which originates outside of Hawkins County and or the state of Tennessee be allowed in any new landfill or in any extension to the present landfill in Hawkins County.

The future health and welfare of the residents of Hawkins County may depend on the outcome of this resolution.

Introduced by Esq. Hubert F. Neal
Seconded by Esq. Danny Alvis
Date Submitted:

Action: Aye Nay Passed

Absent _____

County Clerk A. Carroll Jenkins 9/13/10

Chairman _____

68-211-701. Required approval. —

No construction shall be initiated for any new landfill for solid waste disposal or for solid waste processing until the plans for such new landfill have been submitted to and approved by:

(1) The county legislative body in which the proposed landfill is located, if such new construction is located in an unincorporated area;

(2) Both the county legislative body and the governing body of the municipality in which the proposed landfill is located, if such new construction is located in an incorporated area; or

(3) Both the county legislative body of the county in which such proposed landfill is located and the governing body of any municipality which is located within one (1) mile of such proposed landfill.
[Acts 1989, ch. 515, § 3; T.C.A., § 68-31-701; Acts 1995, ch. 5, § 1.]

68-211-707. Applicability — Requirement of local approval. —

(a) The provisions of §§ 68-211-701 — 68-211-705 and this section shall only apply in any county or municipality in which it is approved by a two-thirds (2/3) vote of the appropriate legislative body. The provisions of §§ 68-211-701 — 68-211-705 and this section are for local review and approval and shall be conducted prior to issuance of a permit by the department of environment and conservation or the commissioner.

(b) Any county or municipality which has approved this part by a two-thirds (2/3) vote of the appropriate legislative body pursuant to subsection (a) shall have the authority to later reject the provisions of this part by a two-thirds (2/3) vote of the appropriate legislative body. If the appropriate legislative body votes by two-thirds (2/3) to reject the provisions of this part after having previously voted to approve this part, then the provisions of this part shall no longer apply to such county or municipality.

[Acts 1989, ch. 515, § 7; T.C.A., § 68-31-707; Acts 1995, ch. 5, § 3.]

RESOLUTION

No. 2010 / 09 / 05

To the HONORABLE MELVILLE E. BAILEY, Chairman, and Members of the Hawkins County Board of Commissioners in Regular Session, met this 27th day of September, 2010.

RESOLUTION IN REF: RE-APPROVAL OF STATUTORY BOND FOR COUNTY PUBLIC OFFICIAL PATRICIA S. COURTNEY FOR TERM OF OFFICE BEGINNING SEPTEMBER 1, 2010 AND ENDING AUGUST 31, 2014.

WHEREAS, the State of Tennessee requires that certain county public officials hold Official Statutory Bonds in accordance with the provisions of Title 8, Chapter 19, Tennessee Code Annotated, and

WHEREAS, the following bond is required to be approved by County Commission and duly signed and recorded by the applicable officials before being forwarded to the State Comptroller's Office:

Trustee, Patricia S. Courtney \$2,067,800.00

WHEREAS, the previous bond approved for this official at the August 23, 2010 meeting on Out-of-Order Resolution No. 2010/08/01 should be rescinded due to the amount having been incorrect. The incorrect amount named on said resolution was taken from a CTAS listing and was not the correct amount that was calculated by County Audit and that will be acceptable with the Comptroller's Office. This information was not known until August 30, 2010.

NOW, THEREFORE, BE IT RESOLVED THAT the bond of the above official be approved by the Hawkins County Board of Commissioners as required by Tennessee Code Annotated.

Introduced by Esq. Robert A. Palmer

ACTION: AYE NAY PASSED

Seconded By Esq. _____ Roll Call _____

Date Submitted 9/13/10 Voice Vote _____

A. Carroll Jenkins Absent _____
COUNTY CLERK COMMITTEE ACTION

BY: _____

CHAIRMAN: _____

ACKNOWLEDGEMENT OF SURETY

STATE OF Tennessee
COUNTY OF Hamblen

Before me, a Notary Public, of the State and County aforesaid, personally appeared Lisa Horner with whom I am personally acquainted and, who, upon oath, acknowledged himself to be the individual who executed the foregoing bond on behalf of Ohio Casualty Insurance Company, the within named Surety, a corporation duly licensed to do business in the State of Tennessee, and that he as such individual being authorized so to do, executed the foregoing bond, by signing the name of the corporation by himself as such individual.

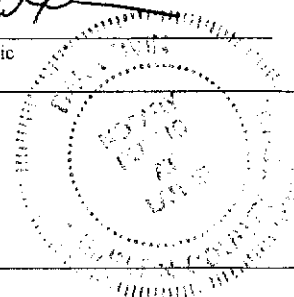
Witness my hand and seal this 1st day of September, 2010.

My Commission Expires:

June 28, 2014

Handwritten signature of the Notary Public.

Notary Public



APPROVAL AND CERTIFICATION

SECTION I. (Applicable to all County Officials except Clerks of Chancery and Circuit Courts)

Bond and Sureties approved by _____, County Executive of _____ County, on this _____ day of _____, 2_____.

Signed:

County Executive

CERTIFICATION:

I, _____, County Clerk of _____ County, hereby certify that the foregoing bond was approved by the Legislative Body of said county, in open session on the _____ day of _____, 2_____, and entered upon the minutes thereof.

Signed:

County Clerk

SECTION II. (Applicable only to Clerks of Chancery and Circuit Courts)

CERTIFICATION:

This is to certify that I have examined the foregoing bond and found the same to be sufficient and in conformity to law, that the sureties on the same are good and worth the penalty thereof and that the same has been entered upon the minutes of said court.

Signed:

Judge of the _____ Chancery _____ Circuit Court of and for said County on this _____ day of _____, 2_____.

SECTION III. (Applicable to all County Officials' Bonds)

FOR USE BY REGISTER OF DEEDS

SECTION IV. (Applicable to all County Officials' Bonds)

INDORSEMENT:

Filed with the Comptroller of the Treasury, State of Tennessee, this _____ day of _____, 2_____.

Signed:

Comptroller of the Treasury

CERTIFIED COPY OF POWER OF ATTORNEY
THE OHIO CASUALTY INSURANCE COMPANY
WEST AMERICAN INSURANCE COMPANY

No. 40-491

Know All Men by These Presents: That THE OHIO CASUALTY INSURANCE COMPANY, an Ohio Corporation, and WEST AMERICAN INSURANCE COMPANY, an Indiana Corporation, pursuant to the authority granted by Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby nominate, constitute and appoint: **Lisa Horner, Ernie Horner, Dan Ervin, Larry Bolton or Cynthia Gregg of Morristown, Tennessee** its true and lawful agent (s) and attorney (s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES, not exceeding in any single instance **FIVE MILLION (\$5,000,000.00) DOLLARS**, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Companies at their administrative offices in Fairfield, Ohio, in their own proper persons.

The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(s)-in-fact.

IN WITNESS WHEREOF, the undersigned officer of the said The Ohio Casualty Insurance Company and West American Insurance Company has hereunto subscribed his name and affixed the Corporate Seal of each Company this **11th day of January, 2008**.



Sam Lawrence

Sam Lawrence, Assistant Secretary

STATE OF OHIO,
COUNTY OF BUTLER

On this **11th day of January, 2008** before the subscriber, a Notary Public of the State of Ohio, in and for the County of Butler, duly commissioned and qualified, came **Sam Lawrence, Assistant Secretary** of THE OHIO CASUALTY INSURANCE COMPANY and WEST AMERICAN INSURANCE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn deposes and says that he is the officer of the Companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Hamilton, State of Ohio, the day and year first above written.



Cheryl S. Gregory

Notary Public in and for County of Butler, State of Ohio
My Commission expires August 5, 2012.

This power of attorney is granted under and by authority of Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, extracts from which read:

Article III, Section 9. **Appointment of Attorneys-in-Fact.** The Chairman of the Board, the President, any Vice-President, the Secretary or any Assistant Secretary of the corporation shall be and is hereby vested with full power and authority to appoint attorneys-in-fact for the purpose of signing the name of the corporation as surety to, and to execute, attach the seal of the corporation to, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of suretyship and policies of insurance to be given in favor of any individual, firm, corporation, partnership, limited liability company or other entity, or the official representative thereof, or to any county or state, or any official board or boards of any county or state, or the United States of America or any agency thereof, or to any other political subdivision thereof

This instrument is signed and sealed as authorized by the following resolution adopted by the Boards of Directors of the Companies on October 21, 2004:

RESOLVED, That the signature of any officer of the Company authorized under Article III, Section 9 of its Code of Regulations and By-laws and the Company seal may be affixed by facsimile to any power of attorney or copy thereof issued on behalf of the Company to make, execute, seal and deliver for and on its behalf as surety any and all bonds, undertakings or other written obligations in the nature thereof, to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment. Such signatures and seal are hereby adopted by the Company as original signatures and seal and shall, with respect to any bond, undertaking or other written obligations in the nature thereof to which it is attached, be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATE

I, the undersigned Assistant Secretary of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Companies and the above resolution of their Boards of Directors are true and correct copies and are in full force and effect on this date.

IN WITNESS WHEREOF, I have hereunto set my hand and the seals of the Companies this _____ day of _____, _____



Mark E. Schmidt

Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-513-867-3471 between 9:00 am and 4:30 pm EST on any business day.

RESOLUTION

No. / /

To the HONORABLE MELVILLE BAILEY, Chairman, and Members of the Hawkins County Board of Commission in Regular Session, met this 27th day of September, 2010.

RESOLUTION IN REF: ACTION TAKEN ON RESIDENTIAL BUILDING CODES PERTAINING TO THE NEW LAW PUBLIC CHAPTER 529, UNDER THE TENNESSEE CLEAN ENERGY FUTURE ACT OF 2009 EFFECTIVE OCTOBER 1, 2010

WHEREAS, in order to increase the state's energy efficiency, the Tennessee General Assembly has the enacted Tennessee Clean Energy Future Act of 2009. As part of this Act, the legislature amended § 68-120-101 of the Tennessee Code Annotated, which provides for minimum statewide building construction standards, to authorize the Department of Commerce and Insurance to adopt a one- and two-family residential code. The State Fire Marshal (SFM), who is also the Commissioner of Commerce and Insurance, will be responsible for enforcement of the code it adopts; and

WHEREAS, the State of Tennessee gives the local governments of cities and counties three options in which the codes are adopted. The options are as follow:

- OPTION A. ADOPT AND ENFORCE ONLY THE MINIMUM STATE CODES.
OPTION B. DO NOTHING AND LET THE STATE DO THE INSPECTIONS
OPTION C. OPT OUT AND LEAVE THE COUNTY WITHOUT RESIDENTIAL INSPECTIONS.

See attached CTAS information on this issue. There is an explanation of each options.

If OPTION C is selected there must be a two-thirds (2/3) vote of the County Legislative Body and will last only from the effective date of the resolution until 180 days after the next legislative body election. At such time, in order to continue the opt-out, the county legislative body will need to pass another resolution by a two-thirds vote.

WHEREAS, the Public Buildings committee is not making a recommendation to the full commission as to what action to take on this issue.

THEREFORE, BE IT RESOLVED THAT one of the reference options be selected for Hawkins County.

- OPTION A. ADOPT AND ENFORCE ONLY THE MINIMUM STATE CODES.
OPTION B. DO NOTHING AND LET THE STATE DO THE INSPECTIONS
OPTION C. OPT OUT AND LEAVE THE COUNTY WITHOUT RESIDENTIAL INSPECTIONS.

Introduced By Esq.
Seconded By Esq.
Date Submitted
County Clerk
By:
Chairman

ACTION: AYE NAY PASSED
Roll Call
Voice Vote
Absent
COMMITTEE ACTION



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
(615) 741-6007

Frequently Asked Questions regarding
Residential Building Codes
Chapter 529 of the Public Acts of 2009
February 12, 2010

1. **What edition of the International Residential Code is the State Fire Marshal's Office (SFMO) going to adopt?**

The SFMO has drafted rules, not yet final, that adopt the 2009 edition of the International Residential Code (IRC) with a few amendments. The SFMO will allow energy code compliance be met through meeting the standards of either Chapter 11 of the 2009 IRC or the 2006 edition of the International Energy Conservation Code.

2. **What does this new law mean with respect to zoning?**

Chapter 529 of the Public Acts of 2009 (the law) does not address zoning and the state will not be enforcing zoning in a city or county. However, any county or city having a planning office could consider having that office act as an "issuing agent" for the state and performing some of the administrative functions of the new law under contract with the state.

3. **Will the code adopted by the SFMO apply to renovations?**

No. The law only applies to new construction. The law prohibits the SFMO from applying the one and two family residential code to renovations.

4. **Will the adopted code require residential sprinklers?**

The law prohibits the SFMO from requiring sprinklers in one and two family residences. Under the planned rules, sprinklers will be required three (3) unit townhouses with five thousand (5,000) gross square feet or more and townhouses built with four (4) or more units regardless of square footage. A local government may adopt a code that requires sprinklers.

5. Will the state be enforcing various locally adopted one and two family residential codes?

No. The SFMO will only be enforcing the codes it adopts. Local governments will be responsible for enforcing any other code or requirement. (A local government might contract with a certified inspector that also serves as a state contract inspector to perform inspections to enforce its local code.)

6. Where will builders or property owners go to obtain a building permit?

The SFMO will contract with "issuing agents" to issue building permits throughout the state so that a building permit can be obtained in each area where the state is enforcing residential building codes.

7. How long will it take to get an inspection?

The law requires all inspections to occur within three (3) working days of when the request is made to the inspector, except for footer inspections which are to be performed within one (1) working day of the request. Additionally, the rules allow any inspection to be waived if an inspection letter approving the work is signed and submitted by an architect or engineer currently registered in the State of Tennessee.

8. How many inspections will be required?

Three (3) inspections will be required at the start of the program for foundation, frame and masonry, and final. After a year, inspections will also be required on plumbing and mechanical systems.

9. What is the effect of a city or county opting out of the legislation by a two-thirds vote by its legislative body?

If a city or county opts out of the legislation, the new law would not apply to the city or county (outside the cities) and neither the new residential code nor any

benefits of having a one and two family residential code would apply in the jurisdiction unless the local government enforces its own code after opting out.

- 10. If a city or a county wants to opt out of the residential building code requirements, when does it have to do that?**

A city or county may opt out at any time. The law allows a city or county to opt out through the passage, by a two-thirds (2/3) vote, of a resolution to exempt the city or county. The opt out resolution expires one hundred eighty (180) days following the date of the election for the city or county's legislative body. If the subsequent legislative body does not vote to opt out prior to the expiration of the opt out resolution, the SFMO will begin to enforce the residential building code requirements and will enforce them until the city or county decides to enforce residential building codes or passes another opt out resolution.

- 11. If a city or county is currently enforcing a one and two family residential code, and does not opt out, will the city or county be affected with respect to its one and two family residential code enforcement?**

The SFMO has developed a simple form for cities and counties to complete to become an "exempt" jurisdiction for residential building code enforcement. As long as the city or county has a code that is current within seven years of the latest edition (other versions can be approved in writing by the SFMO) the jurisdiction will not be affected except to show that it is adequately enforcing its code. The Department requests ninety (90) days notice if a city or county wants to change who enforces residential building codes to ensure deputy building inspectors and issuing agents are obtained or notified of the changes.

- 12. If a city or county does not opt out and does not enforce its own residential code (current within seven years or approved in writing) will the SFMO enforce the one and two family residential code in the jurisdiction?**

Yes. The SFMO will utilize contract employees (like it does with the electrical inspection program) and/or agreements with local governments to provide for inspections. The SFMO has been offering and will be providing classes to ensure that we have certified inspectors available to perform the required inspections.

- 13. How do you become an issuing agent?**

The Department is finalizing the process to advertise for and contract with entities to be issuing agents. Issuing agents will receive fifteen dollars (\$15) for each permit sold.

14. How do you become a deputy building inspector?

The law allows the Department to contract with individuals through a professional corporation or contract with a city or county to perform inspections on behalf of the Department as deputy building inspectors. Individuals acting as deputy building inspectors must be certified by the state in the area in which they will perform inspections. The Department is finalizing the process to advertise for and contract with deputy building inspectors.

15. What are the benefits for and costs to citizens in a city or county with a qualifying one and two family residential code?

First, consumers will have protection from substandard construction and will benefit from the reduced energy costs in soundly constructed homes. The U. S. Department of Energy estimates that homes built to a modern code save 30 percent to 50 percent in energy usage costs. Appraisals of energy-efficient homes could be higher than one that does not meet energy standards, which could impact mortgage loan to value ratios positively.

Identifying any mistakes before they have been concealed by further construction will make any correction less costly. Reputable home builders benefit from having standards that apply to all contractors and from enforcement of those standards.

Homes built to a residential code are safer.

Homes required to properly dispose of waste will protect the environment.

New homeowners in cities and counties with codes that are effectively enforced may benefit from an ISO Building Code Effectiveness Grading System premium discount on their homeowner's insurance. Homes that are constructed meeting higher standards may suffer less damage in a storm, for example, and in the long term reduced claims would impact risk-based insurance rates.

With respect to costs, the permitting and inspections will require an initial fee established by rule to offset the expenses of permitting and inspections. It is anticipated that this fee will be based on the costs/size of the home being constructed and will be comparable to fees typically charged in jurisdictions in Tennessee that have adopted residential codes. Reduced energy costs more than offset applicable permitting and inspection fees in a very short period of time, which impacts the long-term affordability of a residence.

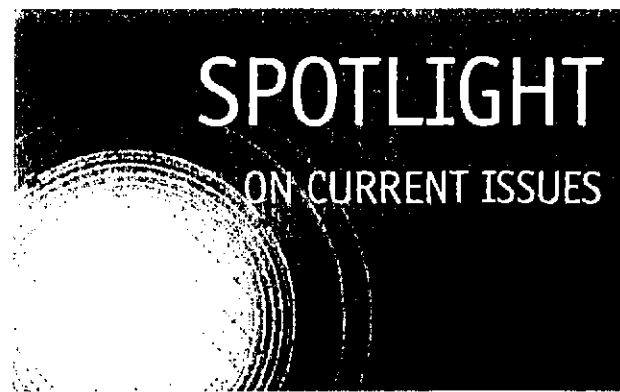
16. What are the benefits for a city or county that does not opt out?

Included in the state budget this year is a \$500,000 appropriation to provide training and materials to implement modern one- and two-family residential codes in the state. This money will be used to help local governments that desire to adopt a code meeting the requirements of the law (current within 7 years) and to train and provide materials for those involved in implementing the state program.

Also, \$9.3 million of ARRA (American Recovery and Reinvestment Act of 2009) money will be used to provide grants of up to \$100,000 to small and mid-sized local governments for energy-efficient use with a preference for cities and counties with modern one- and two-family residential codes, whether enforced locally or by the state.

17. Where can I get additional assistance or information regarding Chapter 529 of the Public Acts of 2009?

Additional information can be obtained by contacting the Tennessee Department of Commerce and Insurance's Division of Fire Prevention at 615-741-2981. Additional information regarding grants can be obtained by contacting the Energy Office of the Tennessee Department of Economic and Community Development at 615-741-2994.



July 16, 2009

NEW STATEWIDE ONE- AND TWO-FAMILY RESIDENTIAL CONSTRUCTION STANDARDS LEGISLATION

In order to increase the state's energy efficiency, the Tennessee General Assembly has enacted the "Tennessee Clean Energy Future Act of 2009." As part of this Act, the legislature amended § 68-120-101 of the *Tennessee Code Annotated*, which provides for minimum statewide building construction standards, to authorize the Department of Commerce and Insurance to adopt a one- and two-family residential code. The State Fire Marshal (SFM), who is also the Commissioner of Commerce and Insurance, will be responsible for enforcement of the code it adopts. Many local governments already have adopted and are enforcing, to varying degrees, a one- and two-family residential construction code. The legislation, however, grants the opportunity for a one- and two-family residential construction code to apply to all areas of the state.

BUILDING CODE ENFORCEMENT PRIOR TO ENACTMENT OF THE TENNESSEE CLEAN ENERGY FUTURE ACT OF 2009

Building Codes (for buildings other than one- and two-family residential construction) — The SFM's office is currently charged with enforcement of building construction safety standards. Minimum building construction standards have been adopted by the SFM by rule for state, city, and county buildings and certain private buildings other than one- and

two-family dwellings. The standards include provisions relating to structural strength and stability, means of egress and fire safety. T.C.A. 68-120-101(b) allows local governments to adopt and enforce their own building construction safety standards for buildings (other than state buildings, educational occupancies or any other occupancy requiring inspection by the SFM for initial licensure which are always reviewed by the SFM's office but may also be reviewed locally). According to the SFM, 35 jurisdictions (so called "exempt" jurisdictions) presently enforce building construction safety standards pursuant to this authority. Being an "exempt" jurisdiction basically means that the local jurisdiction enforces the codes themselves instead of the state. Local jurisdictions can lose this exemption if they fail to adequately enforce the codes or if the codes they have adopted are not current within seven years of the latest edition (unless otherwise approved by the SFM, which will be required to be in writing under the new law). This regulatory scheme remains in place under the new Act.

WHAT HAS CHANGED UNDER THE ACT?

1. As part of the effort to improve energy efficiency in the state, the Act amends § 68-120-101 to add energy efficiency to the standards to consider in adoption of the minimum statewide building construction standards.

July 16, 2009

NEW STATEWIDE ONE- AND TWO-FAMILY RESIDENTIAL CONSTRUCTION STANDARDS LEGISLATION

2. The Act also adds one- and two-family dwellings, except renovations, to the list of structures that may be subject to a building code adopted by the SFM. This is the most significant change in the Act as it relates to building construction standards and is the part of the Act that grants the opportunity for a one- and two-family residential construction code to apply to all areas of the state without any local government mandate. The Act makes it clear that the statewide standards will not include mandatory sprinklers for one- and two-family dwellings, but local governments may adopt more stringent standards should they choose to do so.

State enforcement v. local enforcement —

As in the prior version of § 68-120-101, local government jurisdictions can be exempt from statewide standards by enforcing standards themselves. In order to provide flexibility to local governments, the Act allows a local government to:

- (1) enforce the construction codes for non-one- and two-family residences as in current law (according to the SFM, a few counties currently do this),
- (2) enforce the one- and two-family residential code, so long as current within seven years (according to the SFM, a significant number of counties already do this), or
- (3) enforce both.

In other words, the local government can enforce either one or both of these codes and the state will enforce the codes the local government chooses not to enforce. A survey of local governments relating to the enforcement of one- and two-family residential codes shows that many

local governments have adopted versions of a residential code, but some have adopted the old *Southern Building Code*, which is no longer in print, and some do not have the means to enforce the code they have adopted.

State adoption of the residential code — With respect to the new part of the law relating to one- and two-family residential construction, the International Residential Code (IRC) is the only code with 2003, 2006 and 2009 editions. The SFM's office will determine which code will be adopted during a formal rulemaking process conducted by the SFM's office, and this process will involve proposed rules, public hearings, a determination of legality by the Attorney General, and the filing of a final rule which takes effect 90 days after filing with the Secretary of State. The SFM's office has advised that this process will occur this year and is the reason that the law does not take effect until next year. Local governments and other interested parties will have an opportunity to participate in the process and see which code will be adopted prior to making any determination with respect to what, if any, action the local government might need to take.

The changes made to § 68-120-101 will obviously increase the workload for the SFM. To handle this increased volume of enforcement, the Act authorizes the SFM to contract with cities and counties, as well as with individuals from the private sector, to Act as deputy building inspectors. The inspectors will be paid a fee for the inspections they perform. The schedule of fees will be set during the rulemaking process discussed previously.

July 16, 2009

NEW STATEWIDE ONE- AND TWO-FAMILY RESIDENTIAL CONSTRUCTION STANDARDS LEGISLATION

Opt-out provision for one- and two-family residential codes available to all local governing bodies — Local governing bodies are allowed to opt out of minimum statewide standards applicable to one- and two-family dwellings regardless of whether the local jurisdiction is enforcing its own code or has no code at all. This opt-out requires a two-thirds vote by the local governing body and expires 180 days after the next local legislative body election (or at an earlier date if set out in the resolution). Thus, should a county legislative body choose to opt-out of the application of minimum statewide standards to one- and two-family dwellings in its jurisdiction, the opt-out will last only from the effective date of the resolution until 180 days after the next county legislative body election. At such time, in order to continue the opt-out, the county legislative body will need to pass another resolution by a two-thirds vote.

It should be noted that there is no urgency for a county to opt-out at this time. The Act does not go into effect until July 1, 2010. Also, the Act is not self-executing, and a county will have at least 90 days from the date any rules are filed with the Secretary of State to exercise an opt-out should the county determine that it does not desire to have minimum one- and two-family residential codes in its jurisdiction. Further, there is presently no state-adopted code to take effect, so local governing bodies do not have complete

information upon which to make a decision to opt out. Lastly, counties should take the time to consider whether they want to take advantage of the state incentives that will be offered to encourage the application of a one- and two-family residential code, including a \$500,000 budget appropriation to aid state and local governments in training and purchasing code books and the recently announced \$9.3 million energy initiative incentive that will be available to small- and mid-sized cities and counties in the form of grants of up to \$100,000, which will have a preference for local governments that plan to enforce or have the state enforce one- and two-family residential codes.

Should a local governing body change its mind about opting out of the one- and two-family residential code, the Act does permit a local governing body to reverse its action at any time by a simple majority vote. Taking such action would make one- and two-family dwellings subject to the minimum statewide code.

Under the Act, local governing bodies are required to transmit any resolutions adopted under § 68-120-101, whether they are opting out or back in, to the SFM's office.

Effective date — The provisions of the Act amending § 68-120-101 become effective on July 1, 2010. • Date changed to Oct. 1, 2010

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