

LEGISLATIVE BILL 888

Approved by the Governor April 14, 2004

Introduced by Friend, 10; Brown, 6; Combs, 32; Connealy, 16; Hartnett, 45;
Janssen, 15; Schimek, 27

AN ACT relating to energy codes; to amend sections 72-804 to 72-806, 81-1608, 81-1613 to 81-1615, 81-1617, 81-1618, 81-1620, 81-1622, and 81-1625, Reissue Revised Statutes of Nebraska, and sections 81-1609, 81-1611, and 81-1616, Revised Statutes Supplement, 2002; to change and harmonize provisions relating to state and local energy codes and standards; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 72-804, Reissue Revised Statutes of Nebraska, is amended to read:

72-804. (1) Any new state building shall meet or exceed the requirements of the ~~2000~~ 2003 International Energy Conservation Code.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the ~~2000~~ 2003 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the State Energy Office, may specify:

(a) A more recent edition of the International Energy Conservation Code;

(b) Additional energy efficiency or renewable energy requirements for buildings; and

(c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

Sec. 2. Section 72-805, Reissue Revised Statutes of Nebraska, is amended to read:

72-805. The 2003 International Energy Conservation Code applies to all new buildings constructed in whole or in part with state funds after ~~January 1, 2000~~ July 1, 2005. The State Energy Office shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section. The State Energy Office shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the State Energy Office. The State Energy Office shall, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Sec. 3. Section 72-806, Reissue Revised Statutes of Nebraska, is amended to read:

72-806. The enforcement provisions of Chapter 1 of the ~~2000~~ 2003 International Energy Conservation Code shall not apply to buildings subject to ~~sections 72-804 and 72-805~~ section 72-804.

Sec. 4. Section 81-1608, Reissue Revised Statutes of Nebraska, is amended to read:

81-1608. The Legislature finds that ~~there is a present and continuing need to provide for the development and implementation of minimum statewide lighting and thermal efficiency standards for buildings, to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of our dwindling energy resources, and to provide for the public health, safety, and welfare consumers have an expectation that newly built houses or buildings they buy meet uniform energy efficiency standards.~~ Therefore, the Legislature finds that there is a need to adopt the 2003 International Energy Conservation Code in order (1) to ensure that a minimum energy efficiency standard is maintained throughout the state, (2) to harmonize and clarify energy building code statutory references, (3) to ensure compliance with the National Energy Policy Act of 1992, (4) to increase energy savings for all Nebraska consumers, especially low-income Nebraskans, (5) to reduce the cost of state programs that provide assistance to low-income Nebraskans, (6) to reduce the amount of money expended to import energy, (7) to reduce the growth of energy consumption, (8) to lessen the need

for new power plants, and (9) to provide training for local code officials and residential and commercial builders who implement the 2003 International Energy Conservation Code.

Sec. 5. Section 81-1609, Revised Statutes Supplement, 2002, is amended to read:

81-1609. As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

- (1) Office ~~shall mean~~ means the State Energy Office;
- (2) Contractor ~~shall mean~~ means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;
- (3) Architect or engineer ~~shall mean~~ means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;
- (4) Building ~~shall mean~~ means any new structure, renovated building, or addition which provides facilities or shelter for public assembly, educational, business, mercantile, institutional, warehouse, or residential occupancies, as well as those portions of factory and industrial facilities which are used primarily for human occupancy, such as office space, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot;
- (5) Residential building ~~shall mean~~ means a building three stories or less that is used primarily as one or more dwelling units;
- (6) Renovation ~~shall mean~~ means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;
- (7) Addition ~~shall mean any construction added to an existing building which will increase the floor area of that building by five percent or more~~ means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;
- (8) Floor area ~~shall mean~~ means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;
- (9) Nebraska Building Energy Conservation Standard ~~shall mean the Model Energy Code, 1983 Edition, of the Council of American Building Officials Energy Code~~ means the 2003 International Energy Conservation Code; and
- (10) Traditional energy sources ~~shall mean~~ means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and
- (11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

Sec. 6. Section 81-1611, Revised Statutes Supplement, 2002, is amended to read:

81-1611. The Legislature hereby adopts the ~~Model Energy Code, 1983 Edition, of the Council of American Building Officials as the Nebraska Building Energy Conservation Standard~~ 2003 International Energy Conservation Code as the Nebraska Energy Code. The State Energy Office may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that ~~will be considered~~ shall be deemed equivalent to the Nebraska Building Energy Conservation Standard Energy Code. Regulations specifying alternative standards may be ~~found~~ deemed equivalent to the Nebraska Energy Code Building Energy Conservation Standard and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Building Energy Conservation Standard Energy Code.

Sec. 7. Section 81-1613, Reissue Revised Statutes of Nebraska, is amended to read:

81-1613. The State Energy Office shall produce manuals for use by architects, engineers, prime contractors, and owners. ~~The~~ Such manuals shall be furnished upon request at a price sufficient to cover the costs of production. ~~The~~ Such manuals shall contain, but not be limited to:

- (1) The Nebraska Building Energy Conservation Standard Energy Code;
- (2) Forms, charts, tables, and other data to assist architects, engineers, and prime contractors in meeting the Nebraska Building Energy Conservation Standard Energy Code; and
- (3) Any other information which the office ~~finds~~ determines will assist local code officials in enforcing the ~~standards~~ code.

Sec. 8. Section 81-1614, Reissue Revised Statutes of Nebraska, is

amended to read:

81-1614. The Nebraska ~~Building Energy Conservation Standard~~ Energy Code shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after ~~August 26, 1983~~ July 1, 2005.

Sec. 9. Section 81-1615, Reissue Revised Statutes of Nebraska, is amended to read:

81-1615. ~~(1)~~ The following shall be exempt from sections 81-1608 to 81-1626:

~~(a)~~ (1) Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area;

~~(b)~~ (2) Any building which is neither heated nor cooled;

~~(c)~~ (3) Any building or portion thereof which is owned by the United States of America;

~~(d)~~ (4) Any manufactured home as defined by section 71-4603;

~~(e)~~ (5) Any modular housing unit as defined by ~~subsection~~ subdivision (1) of section 71-1557; and

~~(f)~~ (6) Any building ~~(i)~~ (a) listed on the National Register of Historic Places, ~~(ii)~~ (b) determined to be eligible for the National Register of Historic Places by the State Historic Preservation Officer, or ~~(iii)~~ (c) designated as an individual landmark or heritage preservation site by a municipality or located within a designated landmark or heritage preservation district. ~~+ and~~

~~(g) Any building to be renovated that is located within an area that has been designated blighted by a municipality.~~

~~(2) All residential buildings shall be exempt from lighting efficiency standards.~~

Sec. 10. Section 81-1616, Revised Statutes Supplement, 2002, is amended to read:

81-1616. For purposes of insuring compliance with section 81-1614:

(1) The office, or its authorized agent, may conduct such inspections and investigations as are necessary to make a determination pursuant to section 81-1625 and may issue an order containing and resulting from the findings of such inspections and investigations; and

(2) A building owner may submit a written request that the office undertake a determination pursuant to subdivision (1) of this section. Such request shall include a list of reasons why the building owner believes such a determination is necessary.

A building owner aggrieved by the office's determination, or refusal to make such determination, may appeal such determination or refusal as provided in the Administrative Procedure Act.

The office may charge an amount sufficient to recover the costs of providing such determinations.

Buildings located in a county, city, or village which has adopted the Nebraska ~~Building Energy Conservation Standard~~ Energy Code or equivalent ~~standard code~~ pursuant to section 81-1618, and constructed after the adoption of such ~~standard code~~, shall be exempt from the provisions of this section.

Sec. 11. Section 81-1617, Reissue Revised Statutes of Nebraska, is amended to read:

81-1617. The State Energy Office and any local code authority may conduct inspections and investigations necessary to enforce the Nebraska ~~Building Energy Conservation Standard~~ Energy Code or equivalent ~~standard code~~ and may, at reasonable hours, enter into any building and upon any premises within its jurisdiction for the purpose of examination to determine compliance with sections 81-1608 to 81-1626. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to sections 29-830 to 29-835.

Sec. 12. Section 81-1618, Reissue Revised Statutes of Nebraska, is amended to read:

81-1618. Any county, city, or village may adopt and enforce a lighting and thermal efficiency ordinance, resolution, code, or standard. Such ordinance, resolution, code, or standard shall be ~~considered deemed~~ equivalent to the Nebraska ~~Building Energy Conservation Standard~~ Energy Code if it ~~would~~ does not result in energy consumption greater than would result from the strict application of the Nebraska ~~Building Energy Conservation Standard~~ Energy Code and is reasonably consistent with the intent of sections 81-1608 to 81-1626. Any building or portion thereof subject to the jurisdiction of, ~~and~~ inspected by such county, city, or village shall be deemed to comply with sections 81-1608 to 81-1626 if it meets the standards of such ordinance, resolution, code, or standards. Such county, city, or village may by ordinance or resolution prescribe a schedule of fees sufficient to pay

the costs incurred pursuant to sections 81-1608 to 81-1626.

Any county, city, or village which adopts and enforces a lighting and thermal efficiency ordinance, resolution, code, or standard may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The local code authority shall submit to the State Energy Office its analysis for determining that a specific requirement is not justified. The State Energy Office shall review such analysis and transmit its findings and conclusions to the local code authority within a reasonable time. The local code authority shall submit to the State Energy Office its explanation as to how the original code or any revised code addresses the issues raised by the State Energy Office. After a local code authority has submitted such explanation, the authority may proceed to enforce its ordinance, resolution, code, or standard.

Sec. 13. Section 81-1620, Reissue Revised Statutes of Nebraska, is amended to read:

81-1620. The State Energy Office shall establish a continuing program ~~of to provide~~ technical assistance to ~~any county, city, or village which adopts and enforces or is considering adopting and enforcing the Nebraska Building Energy Conservation Standard or equivalent standard~~ local code officials and residential and commercial builders. The program shall include the training of local code officials in building technology and local enforcement procedure related to ~~lighting and thermal efficiency standards,~~ implementation of the Nebraska Energy Code and the development of training programs suitable for presentation by local governments, educational institutions, and other public or private entities.

Sec. 14. Section 81-1622, Reissue Revised Statutes of Nebraska, is amended to read:

81-1622. Prior to the construction, renovation, or addition to any existing building after the dates specified in section 81-1614 the following requirements shall be met where a county, city, or village has not adopted an ordinance, resolution, code, or standard pursuant to section 81-1618:

(1) When no architect or engineer is retained, the prime contractor shall build or cause to be built, to the best of his or her knowledge, according to the Nebraska ~~Building Energy Conservation Standard~~ Energy Code; and

(2) When an architect or engineer is retained: (a) The architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the Nebraska ~~Building Energy Conservation Standard~~ Energy Code and (b) the prime contractor responsible for the actual construction shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

Sec. 15. Section 81-1625, Reissue Revised Statutes of Nebraska, is amended to read:

81-1625. If the Director of the State Energy Office or the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska ~~Building Energy Conservation Standard~~ Energy Code or equivalent ~~standard code~~ adopted by a county, city, or village in effect at such time, the director or code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance. This section does not limit the right of the owner to bring civil action against the contractor, architect, or engineer for the cost of bringing the building into compliance.

Sec. 16. Sections 1 to 12, 14, 15, and 17 of this act become operative on July 1, 2005. The other sections of this act become operative on their effective date.

Sec. 17. Original sections 72-804 to 72-806, 81-1608, 81-1613 to 81-1615, 81-1617, 81-1618, 81-1622, and 81-1625, Reissue Revised Statutes of Nebraska, and sections 81-1609, 81-1611, and 81-1616, Revised Statutes Supplement, 2002, are repealed.

Sec. 18. Original section 81-1620, Reissue Revised Statutes of Nebraska, is repealed.