

## **BILL ANALYSIS**

C.S.H.B. 1736  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

With the increasing inflexibility and number of energy codes, there is concern that housing affordability is suffering and code compliance is becoming more difficult. To further complicate the situation, the cost savings of a property's energy-efficient features are often undervalued in the appraisal process. The increase in the sales price of a property sometimes results in a delayed closing or a lost sale. Interested parties contend that implementing a more intelligent and rational energy code policy would result in significantly better energy code compliance rates and effective price-sensitive applications that benefit all Texans. C.S.H.B. 1736 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the State Energy Conservation Office in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 1736 amends the Health and Safety Code to adopt on September 1, 2016, the energy efficiency chapter of the International Residential Code, as it existed on May 1, 2015, as the energy code in Texas for single-family residential construction. The bill authorizes the State Energy Conservation Office (SECO), on or after September 1, 2021, to adopt and substitute for that energy code the latest published edition of the energy efficiency chapter of the International Residential Code, based on written findings on the stringency of the chapter submitted by the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System. The bill prohibits SECO from adopting an updated edition more often than once every six years.

C.S.H.B. 1736 authorizes SECO, for the purposes of achieving energy conservation in all other residential, commercial, and industrial construction, to adopt and substitute for the International Energy Conservation Code as it existed on May 1, 2001, the latest published edition of the International Energy Conservation Code, based on written findings on the stringency of the edition submitted by the laboratory.

C.S.H.B. 1736 requires SECO to establish, by rule, an effective date for an adopted edition of either the International Residential Code or the International Energy Conservation Code, as applicable, that is not earlier than nine months after the date of adoption.

C.S.H.B. 1736 includes manufacturers of building materials and products among the persons that

SECO is required to consider as having an interest in adoption of new energy codes when establishing by rule a procedure for such persons to have an opportunity to comment on code updates.

C.S.H.B. 1736 requires the laboratory to submit to SECO written findings on the stringency of the latest published edition of the International Residential Code energy efficiency provisions only if it has been six or more years since the adoption of a new edition and requires the laboratory to submit to SECO written findings on the stringency of the latest published edition of the International Energy Conservation Code not later than six months after publication of a new edition.

C.S.H.B. 1736 removes a county's authorization to establish procedures to adopt local amendments to the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code. The bill authorizes a municipality located in a nonattainment area or in an affected county to establish procedures to adopt local amendments to the energy rating index in an optional compliance path of an adopted energy code. The bill requires an energy rating index in an optional compliance path of an energy code described by the bill to be considered in compliance. The bill, in a temporary provision set to expire September 1, 2025, sets out the Energy Rating Index used to measure compliance for single-family residential construction in an optional compliance path of an edition of the energy efficiency chapter of the International Residential Code that uses an energy rating index for climate zones 2, 3, and 4.

C.S.H.B. 1736 repeals the following provisions of the Health and Safety Code:

- Section 388.003(b-1), as added by Chapter 262 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007
- Section 388.003(b-1), as added by Chapter 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1736 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

##### INTRODUCED

SECTION 1. Section 388.003(b-1), Health and Safety Code, as added by Chapter 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(b-1) The [~~If—the~~] State Energy Conservation Office may adopt and substitute for the energy codes described by Subsection (a) or (b) [determines, based on written recommendations from the laboratory, that the energy efficiency provisions of] the latest published edition [editions] of the International Residential Code energy efficiency provisions or the latest published edition of the International

##### HOUSE COMMITTEE SUBSTITUTE

**No equivalent provision.** (*But see SECTION 1 and SECTION 2 below.*)

~~Energy Conservation Code, based on written findings from the laboratory on the stringency of the editions and comments and recommendations from the Building Energy Efficiency Advisory Committee [for residential or commercial energy efficiency and air quality are equivalent to or more stringent than the provisions of editions adopted under Subsection (a) or (b), the office by rule may adopt and substitute in the energy code the equivalent or more stringent editions for of the initial editions described by Subsection (a) or (b)]. The [If the State Energy Conservation Office adopts the latest published editions of the International Residential Code or the International Energy Conservation Code into the energy code, the] office:~~

~~(1) may not adopt an edition under this subsection more often than once every six years; and~~

~~(2) shall establish by rule an effective date for an adopted edition [the new editions] that is not earlier than nine months after the date of adoption.~~

~~[The laboratory shall submit recommendations concerning the latest published editions of the International Residential Code or the International Energy Conservation Code not later than six months after publication of new editions.]~~

**No equivalent provision.** *(But see SECTION 1 above.)*

SECTION 1. Section 388.003, Health and Safety Code, is amended by amending Subsections (a), (b), (b-2), (b-3), (d), and (i) and adding Subsections (j) and (k) to read as follows:

(a) To achieve energy conservation in single-family residential construction, the energy efficiency chapter of the International Residential Code, as it existed on May 1, 2001, is adopted as the energy code in this state for single-family residential construction. On September 1, 2016, the energy efficiency chapter of the International Residential Code, as it existed on May 1, 2015, is adopted as the energy code in this state for single-family residential construction. On or after September 1, 2021, the State Energy Conservation Office may adopt and substitute for that energy code the latest published edition of the energy efficiency chapter of the International Residential

Code, based on written findings on the stringency of the chapter submitted by the laboratory under Subsection (b-3). The office:

(1) may not adopt an edition under this subsection more often than once every six years; and

(2) by rule shall establish an effective date for an adopted edition that is not earlier than nine months after the date of adoption.

No equivalent provision. (*But see SECTION 1 above.*)

(b) To achieve energy conservation in all other residential, commercial, and industrial construction, the International Energy Conservation Code as it existed on May 1, 2001, is adopted as the energy code for use in this state for all other residential, commercial, and industrial construction. The State Energy Conservation Office may adopt and substitute for that energy code the latest published edition of the International Energy Conservation Code, based on written findings on the stringency of the edition submitted by the laboratory under Subsection (b-3). The office by rule shall establish an effective date for an adopted edition that is not earlier than nine months after the date of adoption.

No equivalent provision.

(b-2) The State Energy Conservation Office by rule shall establish a procedure for persons who have an interest in the adoption of energy codes under Subsection (a) or (b) [~~(b-1)~~] to have an opportunity to comment on the codes under consideration. The office shall consider persons who have an interest in adoption of those codes to include:

- (1) commercial and residential builders, architects, and engineers;
- (2) municipal, county, and other local government authorities; [~~and~~]
- (3) environmental groups; and
- (4) manufacturers of building materials and products.

SECTION 2. Section 388.003, Health and Safety Code, is amended by amending Subsections (b-3) and (i) and adding Subsection (b-4) to read as follows:

(b-3) The [~~In developing written recommendations under Subsection (b-1), the~~] laboratory shall:

(1) submit findings on the stringency of the latest published edition of the International

(b-3) The [~~In developing written recommendations under Subsection (b-1), the~~] laboratory shall:

(1) submit to the State Energy Conservation Office **written** findings on the stringency of

Residential Code energy efficiency provisions and of the International Energy Conservation Code to the State Energy Conservation Office not later than six months after publication of a new edition; and

(2) in developing the findings, consider the comments submitted under Subsection (b-2) and the comments and recommendations of the Building Energy Efficiency Advisory Committee on the latest published editions.

(b-4) The State Energy Conservation Office may amend or establish an energy rating index that is used to measure compliance in a voluntary compliance path of an energy code edition before adopting the edition under Subsection (b-1). The office may adopt an energy rating index for each climate zone in this state.

No equivalent provision.

(i) A local amendment adopted under Subsection (d) may not conflict with the compliance paths described by this subsection. A building certified by a national, state, or local accredited energy efficiency program and determined by the laboratory to be in compliance with the energy efficiency requirements of this section shall ~~[may, at the option of the municipality,]~~ be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification

the latest published edition of the International Residential Code energy efficiency provisions only if the date of the edition allows the office to adopt the edition under Subsection (a)(1);

(2) submit to the State Energy Conservation Office written findings on the stringency of the latest published edition of the International Energy Conservation Code not later than six months after publication of a new edition; and

(3) in developing the findings, consider the comments submitted under Subsection (b-2).

No equivalent provision.

(d) A municipality ~~[or county]~~ may establish procedures to adopt local amendments to the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code. Notwithstanding the requirements of Subsection (e), a municipality located in an area defined by Section 388.002(11) or in an affected county may establish procedures to adopt local amendments to the energy rating index in an optional compliance path of an energy code adopted under this section.

(i) A building certified by a national, state, or local accredited energy efficiency program and determined by the laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the municipality, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance. An energy rating index in an optional compliance path of an energy code

of energy code equivalency shall be considered in compliance. An energy rating index in a voluntary compliance path of an energy code adopted by the State Energy Conservation Office under Subsection (b-1) shall be considered in compliance.

No equivalent provision.

described by Subsection (j) shall be considered in compliance.

(j) For the purposes of this chapter, the Energy Rating Index used to measure compliance for single-family residential construction in an optional compliance path of an edition of the energy efficiency chapter of the International Residential Code that uses an energy rating index is as follows:

(1) for climate zone 2, an energy rating index of:

(A) 65 or lower from September 1, 2016, to August 31, 2019;

(B) 63 or lower from September 1, 2019, to August 31, 2022; and

(C) 59 or lower on or after September 1, 2022;

(2) for climate zone 3, an energy rating index of:

(A) 65 or lower from September 1, 2016, to August 31, 2019;

(B) 63 or lower from September 1, 2019, to August 31, 2022; and

(C) 59 or lower on or after September 1, 2022; and

(3) for climate zone 4, an energy rating index of:

(A) 69 or lower from September 1, 2016, to August 31, 2019;

(B) 67 or lower from September 1, 2019, to August 31, 2022; and

(C) 63 or lower on or after September 1, 2022.

(k) This subsection and Subsection (j) expire September 1, 2025.

No equivalent provision.

SECTION 3. Chapter 388, Health and Safety Code, is amended by adding Section 388.0035 to read as follows:

Sec. 388.0035. BUILDING ENERGY EFFICIENCY ADVISORY COMMITTEE.

(a) The State Energy Conservation Office shall establish the Building Energy Efficiency Advisory Committee.

(b) The advisory committee is appointed by the State Energy Conservation Office and composed of 13 members who have an

interest in the adoption of energy codes.

(c) The advisory committee must include:

(1) two commercial builders who are members of a statewide trade association;

(2) two residential builders who are members of a statewide trade association;

(3) two building code officials;

(4) two members who represent environmental groups;

(5) two members who are certified as energy raters by the Residential Energy Services Network or a comparable organization or certified as code inspectors by the International Code Council;

(6) one member who is an architect registered under Chapter 1051, Occupations Code, or engineer licensed under Chapter 1001, Occupations Code;

(7) one member who represents the electric utility industry; and

(8) one public member.

(d) Chapter 2110, Government Code, applies to the committee, except for Sections 2110.002 and 2110.008.

(e) The committee may submit to the laboratory and the State Energy Conservation Office:

(1) comments on energy codes under consideration for adoption under Section 388.003(b-1); and

(2) recommended energy rating indexes for each climate zone in this state that may be used to measure compliance in a voluntary compliance path recognized by the International Residential Code energy efficiency provisions or the International Energy Conservation Code.

SECTION 4. Section 388.003(b-1), Health and Safety Code, as added by Chapter 262 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

SECTION 5. Not later than January 1, 2016, the State Energy Conservation Office shall appoint the members of the Building Energy Efficiency Advisory Committee as provided by Section 388.0035, Health and Safety Code, as added by this Act.

SECTION 2. The following provisions of the Health and Safety Code are repealed:

(1) Section 388.003(b-1), as added by Chapter 262 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007; and

(2) Section 388.003(b-1), as added by Chapter 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007.

No equivalent provision.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.