

Sprinkler Foes Buoyed by Pennsylvania Victory

Builders in Pennsylvania are declaring victory after a contentious campaign to remove a residential fire-sprinkler requirement from the state's recently updated building code. The Pennsylvania Uniform Construction Code (UCC) is closely based on the 2009 IRC and included the model code's residential-sprinkler requirement when it became effective on January 1 of this year. Like similar groups elsewhere, however, Pennsylvania builders associations successfully appealed to state lawmakers for relief from what they called a burdensome and unnecessary mandate (see "State Legislators Deal Blow to Residential-Sprinkler Codes," 10/10).

A matter of choice. In March, the state House of Representatives approved a version of the sprinkler-repeal bill by a sweeping 154-to-39 majority. The Pennsylvania Builders Association (PBA) had lobbied strenuously for its passage, claiming that the requirement would add thousands of dollars to the cost of new homes, pricing potential buyers out of the market and putting further pressure on an already-struggling building industry.

To bolster its argument, the PBA cited residential building-permit applications, which had been issued at the rate of about 1,100 to 1,200 per month throughout most of 2010. In December, though, permits more than doubled before falling back to the normal range in January of 2011. That, sprinkler opponents argued, was convincing evidence that home buyers were actively trying to avoid the requirement, since sprinklers would not be required in new homes given permits before the revised code took effect.

"Consumer choice is an important consideration for us," says PBA spokesperson Melissa Etshied. "Builders were being put in a position of having to tell people they didn't have a choice. Our members are happy to install sprinklers if people want them."

After its passage by the house, the original repeal bill, HB 377, moved to the Senate, which passed an amended version on April 14. The Senate version then went back to the House, which swiftly approved it and sent it to Governor Tom Corbett, who signed it into law on April 25.

Changing the rules. The tactics used in amending the bill have raised the hackles of firefighters and other sprinkler advocates, who claim that builder pushback on the issue has not only eliminated the sprinkler provision but also fundamentally changed the way state code is enacted.

Under Pennsylvania law, responsibility for updating the state's residential code falls to the Uniform Construction Code Review and Advisory Council, commonly known as the RAC. Council members are appointed by the governor under a formula that divides up the 19 seats on the body among builders, manufacturers, safety experts, and local officials. Since the RAC was created in 2008, code changes have been adopted or rejected

■ A Maine legislative committee has voted down a bill that would have repealed the state's first-ever state-wide residential building code, which took effect in December of 2010. Supporters of the repeal bill, HP 36 LD 43, had argued that the code imposed unreasonable restrictions on builders and homeowners. One of its sponsors, representative Lance Harvell, told a reporter that he found its interference with home-building projects "morally offensive." Despite the failure of the repeal bill, several other pieces of legislation that would delay or modify the new code are likely to be considered later in the session.

■ Consumer-protection authorities in New Jersey have filed charges against 18 contractors for doing business without a state registration, or failing to display their registration numbers as required. The charges were filed after a sting operation in which the contractors were invited to submit bids for projects on a county-owned home in the community of Paulsboro. In addition to the 18 builders charged — who face fines of up to \$5,000 — an additional 76 contractors were slapped with warning notices requiring them to comply with registration requirements within 30 days.

■ A federal court has rejected a legal challenge to recently enacted changes to OSHA's fall-protection rules, which greatly restrict the circumstances under which contractors can use so-called alternative fall protection (see "OSHA Moves to Limit Alternative Fall Protection," 3/11). The National Roofing Contractors Association had filed a motion for judicial review of the rules in February, claiming that the federal agency had failed to follow its own rule-making process and had rejected the use of slide guards without presenting evidence that they are ineffective. The court's action means that the revised fall-protection rules will likely become effective on June 16 of this year, as scheduled.

by a simple majority vote of its members. Under the Senate-amended version of HB 377, however, future changes to the code must be ratified by a two-thirds vote of the RAC, meaning that at least 13 of 19 votes are required for passage.

The final version of the bill also made a one-word change to the language that defines the qualifications of RAC members. Under the original rules, four of the 19 seats on the council were reserved for members with close ties to the residential construction industry, including a residential contractor, a residential general contractor, and one representative each from the manufactured and modular housing industries. A fifth industry seat on the council was reserved for a member defined simply as a “contractor.”

Under the amended version of the bill, the contractor seat will in the future be reserved for a general contractor. As a result of that change, the fire sprinkler contractor who currently holds the seat will be replaced — presumably with a less sprinkler-friendly member — when his current term expires in June of 2012.

Recriminations. Sprinkler advocates are crying foul. Given that the sprinkler provision originally made its way into the state code by a narrow 10-to-9 vote of the RAC, critics charge that the revised rules come dangerously close to granting residential builders veto power over any code changes they happen to find inconvenient.

“Why don’t we just have the fox watch the henhouse while we’re at it?” asks National Fire Sprinkler Association regional manager Raymond Lonabaugh in exasperation.

Jeff Shapiro, executive director of the International Residential Code Fire Sprinkler Coalition, notes the extent to which anti-sprinkler forces have strengthened their position in the state. “Builders are very well-represented in the state legislature, and they have effective lobbying,” he says. “When they told their legislators that they wanted the sprinkler requirement removed, the legislature went one better and dismantled the whole code process for them.”

Not surprisingly, PBA’s Melissa Etshied defends the changes. “Our criticism of the way the RAC worked before is that it was too easy for a large corporation to use its influence to sell product,” she says. “Replacing the contractor seat with a general contractor will give the RAC stronger expertise in the industry as a whole.”

National picture. With the action of the Pennsylvania legislature, California stands alone as the one state to have adopted a version of the IRC with an effective sprinkler provision still in place. (South Carolina has also adopted the 2009 IRC, but has

delayed the sprinkler phase-in date until at least 2014. And even though the sprinkler requirement is also technically in effect in Maryland, its status as a so-called “home rule” state means that individual counties are free to modify the state code as they wish, and all but three have eliminated the sprinkler mandate.) More than 30 states that have yet to adopt the 2009 code have preemptively removed the requirement as well, or passed legislation prohibiting its inclusion in any future code.

Nevertheless, Shapiro is convinced that concerns about product liability will eventually turn the tide in favor of fire sprinklers. He credits builder organizations in California — most of which, he says, did not oppose the requirement — with protecting their members from a coming flood of sprinkler-related lawsuits.

“Table-saw manufacturers have been successfully sued for injuries that could have been prevented by a readily available safety device, even though they aren’t required,” he says. “Compare that to fire sprinklers. They’re a proven technology that’s required by a nationally recognized standard, and builders are choosing to ignore it. Why do they think they’re not going to get sued when someone dies in a house fire? When that happens, they’ll find that they’ve been hung out to dry.” — *Jon Vara*

■ Plumbing giant Kohler has announced the release of a super-high-end toilet called the Numi. Retailing for \$6,400, the new commode is shaped like a box and contains a full range of features, including a touch-screen remote, a motion-activated lid, an integrated bidet and air dryer, a heated seat and foot-warming air jets, and even a built-in radio (perhaps a concession to older buyers). To view an MTV-style video — in which, inexplicably, the toilet is installed in a glass-walled room — go to kohler.com/numipressrelease/#video.html.

■ Despite the spectacular crash in home values over the past few years, a large majority of Americans still believe in the value of home ownership. This is true even of Americans whose own homes have lost value during the recession. That’s the conclusion of a recent Pew Research Center survey, which found that 82 percent of homeowners who say their homes have fallen in value since the recession began either strongly or somewhat agree with the statement “Home ownership is the best long-term investment a person can make.”