

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 3254

 By: McBride

7 AS INTRODUCED

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2011, Sections 1000.21, as amended
10 by Section 2, Chapter 223, O.S.L. 2014, 1000.22,
11 1000.23, as amended by Section 3, Chapter 223, O.S.L.
12 2014, 1000.24, 1000.25, as last amended by Section 4,
13 Chapter 223, O.S.L. 2014 and 1000.28, as amended by
14 Section 273, Chapter 304, O.S.L. 2012 (59 O.S. Supp.
15 2017, Sections 1000.21, 1000.23, 1000.25 and
16 1000.28), which relate to the Oklahoma Uniform
17 Building Code Commission Act; authorizing
18 Construction Industries Board to administer the
19 Oklahoma Uniform Building Code Commission Act;
20 modifying powers and duties of the Oklahoma Uniform
21 Building Code Commission; authorizing Board to
22 recommend system of fees; providing for payment of
23 certain fees collected; repealing 59 O.S. 2011,
24 Sections 1000.26 and 1000.27, which relate to the
 Chief Executive Officer and legal advisor to the
 Oklahoma Uniform Building Code Commission; and
 providing an effective date.

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

22 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1000.21, as
23 amended by Section 2, Chapter 223, O.S.L. 2014 (59 O.S. Supp. 2017,
24 Section 1000.21), is amended to read as follows:

1 Section 1000.21 A. 1. There is hereby created the Oklahoma
2 Uniform Building Code Commission within the Construction Industries
3 Board ~~which~~. The Construction Industries Board is authorized to
4 administer the Oklahoma Uniform Building Code Commission Act and
5 exercise all incidental powers necessary and proper to implement and
6 enforce the provisions of the Oklahoma Uniform Building Code
7 Commission Act and the rules promulgated thereto. The Oklahoma
8 Uniform Building Code Commission shall consist of eleven (11)
9 members, nine of whom shall be appointed by the Governor with the
10 advice and consent of the Senate as follows:

- 11 a. one member who is a general contractor from a
12 statewide organization that represents residential
13 construction,
- 14 b. one member who is a general contractor from a
15 statewide organization that represents commercial
16 construction,
- 17 c. one member who is a contractor from a statewide
18 organization that represents electrical contractors,
- 19 d. one member who is a contractor from a statewide
20 organization that represents plumbing contractors,
- 21 e. one member who is a contractor from a statewide
22 organization that represents heating and cooling
23 contractors,

24

1 f. one member who is a local-level regulator/inspector
2 who is a member of a statewide organization that is
3 exempt from taxation under federal law and designated
4 pursuant to the provisions of the Internal Revenue
5 Code, 26 U.S.C., Section 170(a), who has represented
6 municipalities and had statutory functions for
7 municipalities for at least fifteen (15) years prior
8 to November 1, 2005,

9 g. one member who is a Certified Building Official
10 employed by a political subdivision,

11 h. one member who is a licensed architect from a
12 statewide organization that represents architects, and

13 i. one member who is from the insurance industry with
14 knowledge of building codes and experience in property
15 loss mitigation.

16 2. The members shall be appointed for staggered terms of four
17 (4) years, beginning July 1, 2009. A full term of office for
18 purposes of determining term limits provided in subsection C of this
19 section shall be the completion of a full four-year term of
20 appointment.

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

1 C. Appointed members shall continue in office until a successor
2 is appointed by the Governor, notwithstanding the term limitations.
3 No appointed member shall serve more than two consecutive full four-
4 year terms; provided, such a member shall be eligible to serve until
5 a successor is appointed, and such member may be reappointed after a
6 two-year absence from the Commission. The Governor shall fill all
7 vacancies and unexpired terms in the same manner as the original
8 appointment of the member whose position is to be filled. No
9 initial appointment to a term of less than four (4) years or any
10 partial-term appointment to fill a vacancy or unexpired term of
11 another member shall be counted for purposes of determining term
12 limits. An appointed member may be removed by the Governor for
13 cause.

14 D. Whenever a member of the Commission is absent from more than
15 one-half (1/2) of all meetings of the governing body, regular and
16 special, held within any period of twelve (12) consecutive months,
17 the member shall thereupon cease to hold office by operation of law.

18 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1000.22, is
19 amended to read as follows:

20 Section 1000.22 ~~1. A.~~ A. The Oklahoma Uniform Building Code
21 Commission shall ~~organize immediately after July 1, 2009, and~~
22 ~~annually thereafter, by electing~~ annually elect from among its
23 members a chair and a vice-chair. The Commission shall hold
24 regularly scheduled meetings at least once each quarter ~~at a time~~

1 ~~and place determined by the Commission~~ and may hold such special
2 meetings, emergency meetings or continued or reconvened meetings as
3 found by the Commission to be necessary. A majority of the members
4 of the Commission shall constitute a quorum for the transaction of
5 business.

6 ~~2.~~ B. The chair shall preside at meetings of the Commission,
7 set the agenda, sign orders and other required documents, coordinate
8 Commission activities and perform such other duties as may be
9 prescribed by the Oklahoma Uniform Building Code Commission Act.

10 ~~3.~~ C. The vice-chair shall perform the duties of the chair
11 during the absence or disability of the chair and shall perform such
12 other duties as may be prescribed by the Oklahoma Uniform Building
13 Code Commission Act.

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

- 16 a. ~~keep a record of all proceedings of the Commission and~~
- 17 ~~certify to actions of the Commission,~~
- 18 b. ~~oversee the receipt and deposit of all monies received~~
- 19 ~~by the Commission in the appropriate revolving funds,~~
- 20 c. ~~submit, at the first regular meeting of the Commission~~
- 21 ~~after the end of each fiscal year, a fully itemized~~
- 22 ~~report of the receipts and disbursements for the prior~~
- 23 ~~fiscal year, showing the amount of funds on hand, and~~

24

1 d. ~~perform such other duties as are prescribed in this~~
2 ~~act or as may be prescribed by the Commission.~~

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

6 6. D. All members of the Commission ~~and such employees as~~
7 ~~determined by the Commission~~ shall be bonded as required by Sections
8 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

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

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

17 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1000.23, as
18 amended by Section 3, Chapter 223, O.S.L. 2014 (59 O.S. Supp. 2017,
19 Section 1000.23), is amended to read as follows:

20 Section 1000.23 A. The Oklahoma Uniform Building Code
21 Commission shall have the power and the duty to ~~review and adopt~~
22 recommend to the Construction Industries Board standards and
23 practices pursuant to this act by reviewing and adopting all
24 building codes for residential and commercial construction to be

1 used by all entities within this state. Codes and standards adopted
2 ~~by the Commission~~ shall be the minimum standards for residential and
3 commercial construction in this state.

4 B. All public projects shall abide by such minimum standards
5 and requirements; provided, nothing in the Oklahoma Uniform Building
6 Code Commission Act shall prevent or take away from state agencies
7 the authority to enact and enforce requirements containing higher
8 standards and requirements than such minimum standards and
9 requirements.

10 C. Municipalities and other political subdivisions shall abide
11 by such minimum standards and requirements; provided, nothing in the
12 Oklahoma Uniform Building Code Commission Act shall prevent or take
13 away from such municipalities and other political subdivisions the
14 authority to enact and enforce requirements containing higher
15 standards and requirements than such minimum standards and
16 requirements.

17 D. The ~~Oklahoma Uniform Building Code~~ Commission shall have the
18 power and duty to ~~establish~~ recommend to the Construction Industries
19 Board a training and certification process for all residential and
20 commercial building code inspectors that prescribes standards,
21 practices and procedures for prelicensing inspector training and
22 other inspector training that enhances the education of building and
23 construction inspectors; provided the training does not infringe
24 upon the education requirements and process under the Oklahoma

1 Inspectors Act. Prelicensing programs prescribing the standards,
2 practices and procedures for prelicensing building inspectors for
3 use by other state agencies and other education providers, both
4 public and private, may be developed through the use of a technical
5 committee developing any program or curriculum and recommending to
6 the Board proposed administrative rules setting forth any standards
7 and procedures to be adopted pursuant to paragraph 1 of subsection A
8 of Section 1000.24 of this title. The Commission shall establish
9 ~~regional~~ prelicensing training on a regional basis for the purpose
10 of training the county and municipal inspectors in the ~~Uniform~~
11 ~~Building Code~~ statewide building codes adopted pursuant to this act.
12 The regional training shall be offered at no cost to the ~~participant~~
13 building and construction inspector trainee and shall be funded from
14 the funds received pursuant to Section 1000.25 of this title. Each
15 inspector operating in this state on behalf of any state agency or
16 any municipal or county office may ~~complete~~ participate in regional
17 training and be issued a certification for inspections by the
18 ~~Uniform Building Code Commission on and after January 1, 2015~~
19 certificate of completion for any training program established
20 pursuant to this act; however, any certificate of completion is
21 subject to the continuing education approval process of the
22 licensing entity. The training and ~~certification applications~~
23 standards and procedures, qualifications and application procedures
24 for the instructor, if a nonstate governmental entity, and the

1 inspector trainee applications shall be promulgated by
2 administrative rules of the ~~Commission~~ Construction Industries
3 Board. ~~The Commission may establish forms~~ Forms and procedures may
4 be established to implement and administer the provisions of this
5 section.

6 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1000.24, is
7 amended to read as follows:

8 Section 1000.24 A. 1. ~~Beginning July 1, 2009, pursuant~~
9 Pursuant to and in compliance with Article I of the Administrative
10 Procedures Act, the ~~Oklahoma Uniform Building Code Commission~~
11 Construction Industries Board shall have the power to adopt, amend,
12 repeal and promulgate rules as may be necessary to perform the
13 duties required under the Oklahoma Uniform Building Code Commission
14 Act. ~~Rules authorized under this section shall not become effective~~
15 ~~prior to October 1, 2009.~~

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

19 ~~3.~~ Any codes adopted by state agencies, municipalities or other
20 political subdivisions of the state prior to uniform codes being
21 adopted by the Oklahoma Uniform Building Code Commission, pursuant
22 to the provisions of, or rules promulgated pursuant to, the Oklahoma
23 Uniform Building Code Commission Act, shall be considered valid and
24

1 in effect until uniform codes are adopted by the Oklahoma Uniform
2 Building Code Commission.

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

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

8 ~~2. Adopt and have an official seal;~~

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

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

17 ~~5.~~ 2. Appoint technical committees to review and recommend for
18 adoption all building codes. The technical committees shall review
19 and recommend building codes with any amendments for adoption by the
20 Commission and receive requests for advisory opinions for
21 interpretation of any statewide building code adopted pursuant to
22 this act, evaluate the requests for appropriateness of need for an
23 advisory opinion, assign any requests to the appropriate technical
24 committee requesting participation from entities responsible for the

1 enforcement of any code involved in the request providing deference
2 to an entity's previous interpretation and, upon recommendation of a
3 technical committee, issue advisory opinions interpreting the
4 adopted statewide code; and

5 ~~6.~~ 3. Create a website listing all building codes adopted by
6 the Commission and any advisory opinions issued. The website shall
7 provide a method for listing all codes adopted by a state agency,
8 city or any other political subdivision of the state containing
9 higher standards and requirements than the codes adopted pursuant to
10 the Oklahoma Uniform Building Code Commission Act as required in
11 Section 14-107 of Title 11 of the Oklahoma Statutes.

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

21 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1000.25, as
22 last amended by Section 4, Chapter 223, O.S.L. 2014 (59 O.S. Supp.
23 2017, Section 1000.25), is amended to read as follows:

24

1 Section 1000.25 A. The Oklahoma Uniform Building Code
2 Commission shall ~~establish~~ recommend to the Construction Industries
3 Board a system of fees to be charged for the issuance and renewal of
4 any construction permits issued by any agency, municipality, or
5 other political subdivision of this state.

6 B. This provision is subject to the following limitations:

7 1. No schedule of fees may be established or amended by the
8 ~~Commission~~ Board except during such times as the Legislature is in
9 session; provided, the ~~Commission~~ Board may establish or amend a
10 schedule of fees at a time when the Legislature is not in session if
11 the fees or schedule of fees has been specifically authorized by the
12 Legislature pursuant to paragraphs 2 and 3 of this subsection. The
13 ~~Commission must~~ Board shall follow the procedures required by
14 Article I of the Administrative Procedures Act for adoption of rules
15 in establishing or amending any such schedule of fees;

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

21 For issuance of permit not to exceed \$5.00

22 For renewal of permit not to exceed \$5.00

23 Fees shall be remitted to the Oklahoma Uniform Building Code
24 Commission Revolving Fund created pursuant to Section 1000.28 of

1 this title within thirty (30) days after the end of the preceding
2 calendar month. The ~~Oklahoma Uniform Building Code Commission~~ Board
3 shall report to the Governor, President Pro Tempore of the Senate
4 and the Speaker of the House semiannually its collections for the
5 six (6) months preceding the report;

6 3. Fees shall be collected by any state agency, municipality or
7 other political subdivision issuing construction permits within this
8 state. The fees shall be deposited in an account created by the
9 collecting entity for that purpose;

10 4. The state agency, municipality or other political
11 subdivision shall remit the monies in the account on a monthly basis
12 directly to the State Treasury for deposit in the Oklahoma Uniform
13 Building Code Commission Revolving Fund created pursuant to Section
14 1000.28 of this title. Along with the deposits required by this
15 paragraph, each state agency, municipality or other political
16 subdivision shall also submit a report stating the total amount of
17 funds collected and the total number of fees imposed during the
18 preceding month. The report shall be made on computerized or manual
19 disposition reports as provided by ~~rule of the Commission~~ rules
20 promulgated pursuant to paragraph 1 of subsection A of Section
21 1000.24 of this title;

22 5. Any state agency, municipality or other political
23 subdivision collecting and remitting fees pursuant to this section
24 may levy a fee up to fifty cents (\$0.50) for every construction

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

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

11 7. Funds collected by a state agency, municipality or other
12 political subdivision and remitted to the State Treasury pursuant to
13 the Oklahoma Uniform Building Code Commission Act shall be deposited
14 in the Oklahoma Uniform Building Code Commission Revolving Fund and
15 shall be used solely for the purposes of the Oklahoma Uniform
16 Building Code Commission Act; provided that of the gross permit fees
17 charged, collected and received, ten percent (10%) shall be paid
18 into the General Revenue Fund of the state; and

19 8. Nothing in this act shall prevent the Oklahoma Uniform
20 Building Code Commission from offering incentives for prompt
21 payment.

22 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1000.28, as
23 amended by Section 273, Chapter 304, O.S.L. 2012 (59 O.S. Supp.
24 2017, Section 1000.28), is amended to read as follows:

1 Section 1000.28 There is hereby created in the State Treasury a
2 revolving fund for the Oklahoma Uniform Building Code Commission to
3 be designated the Oklahoma Uniform Building Code Commission
4 Revolving Fund. The fund shall be a continuous fund, not subject to
5 fiscal year limitations, and shall consist of all fees or payments
6 ~~of any type~~ received by the ~~Commission~~ Construction Industries Board
7 for the purposes outlined in the provisions of the Oklahoma Uniform
8 Building Code Commission Act. All monies accruing to the credit of
9 the fund are hereby appropriated and may be budgeted and expended by
10 the ~~Commission~~ Board for the purpose of implementing and
11 administering the Oklahoma Uniform Building Code Commission Act.
12 Expenditures from the fund shall be made upon warrants issued by the
13 State Treasurer against claims filed as prescribed by law with the
14 Director of the Office of Management and Enterprise Services for
15 approval and payment.

16 SECTION 7. REPEALER 59 O.S. 2011, Sections 1000.26 and
17 1000.27, are hereby repealed.

18 SECTION 8. This act shall become effective November 1, 2018.

19
20 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
21 02/27/2018 - DO PASS.
22
23
24