

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 25, 2017

3:15 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

PRESENTATION ON RESIDENTIAL BUILDING CODES BY: ANDREW SPINELLI,
AK STATE HOME BUILDING ASSOCIATION; JOHN ANDERSON, AK HOUSING
FINANCE CORP

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

ANDRE SPINELLI, Co-Chair
Legislative Committee;
Past President
Alaska State Home Building Association (ASHBA)
Anchorage, Alaska

POSITION STATEMENT: Gave a presentation on building codes in
Alaska.

JOHN ANDERSON, Director
Research & Rural Development
Alaska Housing Finance Corporation (AHFC)
Anchorage, Alaska

POSITION STATEMENT: Offered details on residential building
codes.

ACTION NARRATIVE

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CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Wool, Knopp, Sullivan-Leonard, Stutes, Josephson, and Kito were present at the call to order. Representative Birch arrived as the meeting was in progress.

**PRESENTATION ON RESIDENTIAL BUILDING CODES BY: ANDREW SPINELLI,
AK STATE HOME BUILDING ASSOCIATION; JOHN ANDERSON, AK HOUSING
FINANCE CORP**

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CHAIR KITO announced that the only order of business would be a presentation about residential building codes.

CHAIR KITO stated that at the Governor's Housing Summit in 2015, there was a conversation about statewide residential building codes. Currently in Alaska, some delegated jurisdictions accept responsibility for administering building codes within their municipal boundaries. In the rest of the state there are not any enforced building codes, unless enforced by organizations that fund, grant, or construct facilities. He stated that if someone wants to build his/her own house, that would still be possible, but if the house is being sold, mortgage lenders lack confidence, assurance, or knowledge that the electrical and plumbing work has been done in accordance with a building code. In order to offer a loan for a property, the mortgage lenders must know that information.

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ANDRE SPINELLI, Co-Chair, Legislative Committee; Past President, Alaska State Home Building Association (ASHBA), gave a presentation on building codes in Alaska. He stated residential business codes encompass all aspects of building construction, from simple plumbing standards to complex energy efficiency upgrades. The problem is that Alaska currently has no statewide residential building codes. Alaska's structure of building codes is confusing; multiple agencies adopt parts of various building codes and energy standards, but there are overlaps, gaps, and conflicts. There is no single place where you can find a comprehensive overview. He remarked:

At present time the [Department of Labor & Workforce Development] adopts commercial and residential electrical and plumbing codes, but the Department of Public Safety adopts fire, life-safety, and mechanical codes for commercial structures, and establishes a residential fire alarm and carbon monoxide code. The Department of Education, Alaska Housing Finance Corporation (AHFC), and the Department of Transportation and Public Facilities (DOT&PF) are all tasked with adopting and applying energy efficiency standards for either commercial or residential buildings that fall under their jurisdiction. Many municipalities adopt comprehensive sets of codes that apply to both residential and commercial buildings, however, there is no formal mechanism for coordination between these entities to ensure that codes are not duplicative [or do not] have gaps or conflicts.

He stated that as a result, government agencies must spend more time and expense developing their own codes, while contractors and citizens face the burden of navigating the resulting tangle of regulations. He offered an example of building a fourplex in Palmer or Anchorage, and wanting to build the same fourplex in Wasilla, where there is not a building code, then falling under the state Fire Marshall's jurisdiction, which does not accept the International Residential Code (IRC). Therefore identical buildings would fall under separate codes.

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MR. SPINELLI offered a solution supported and encouraged by the Alaska State Home Building Association for several years, which is for the State of Alaska to adopt a baseline residential building code. He stated the recommendation is to model the implementation and enforcement of a statewide code after AHFC's use of the IRC. The AHFC adopts the IRC but adds amendments for local conditions. The IRC has one book that contains all the codes required for one- and two-family homes and townhouses. The energy chapter in the IRC book is the same energy wording that AHFC adopts and uses for its current energy code for homes that must meet the AHFC code. He said that builders are familiar with this system and its track record of addressing different costs and circumstances in all the different regions across the entire state. AHFC uses inspectors that do the plan review and inspect the construction of the building - a process that has been in place for many years. He stated that the

process works well and allows for the amount of flexibility that Alaskans seem to require. He remarked:

When it comes to applying residential building codes, the AHFC model acknowledges that one size does not fit all in Alaska. Most of the members of the House Labor & Commerce [Standing] Committee represent communities that have municipal governments that have adopted building codes, but there are many legislators who represent regions where there are no local codes, and there is an attitude that they don't want the government to tell them whether and/or how they should build a house.

MR. SPINELLI stated that the membership of the Alaska State Home Builders Association appreciates the sentiment of not wanting government to force anything on anyone, and clarified that is not the objective of the association. He remarked:

Adopting a statewide building code is about recognizing the importance of building safely, effectively, and efficiently. When there is no building code, homeowners are left to fend for themselves in a buyer-beware market.

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MR. SPINELLI asked the committee members to help the association with the proposed legislation. He stated the current and past administrations have stated they support the concept but thought the legislation wouldn't pass the legislature; and the legislature has stated concern for introducing a bill that won't get support from the administration.

He asked the committee to work with AHFC and all stakeholders to develop a reasonable proposal to adopt a statewide residential building code and energy efficiency standard. He stated that the association would like to see a move towards the drafting of legislation, and he recognized it might take longer than this session. In the past, ASHBA created a board with builders as members, adopted a code, and set up a website to apply for building permits and choose inspectors. This shoestring, voluntary program was aimed to keep things minimal.

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REPRESENTATIVE BIRCH asked if the standard would carry through rural and urban areas of the state, and if the objective of the proposal is to adopt a code at the state level to fill in the voids of areas with no applicable overarching code.

MR. SPINELLI stated that he knows that Alaskans can't be told that every shelter built must meet a building code. The final outcome hasn't been determined. The idea is for homes to be financed by a bank that looks to a standard; in some areas there is no standard. Certain agencies see a gap in enforcement and are operating beyond the legal scope of what their department should be doing. The proposal would establish a baseline to say if a person is building a house in Alaska and is getting financing or going through an inspection process, then this is the code that should be met.

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REPRESENTATIVE SULLIVAN-LEONARD asked if the committee will see legislation coming forward on this issue and what the fiscal note would look like.

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CHAIR KITO responded that this meeting is for the committee to collect information on the situation and problem, and see if there is something to be done through legislation. Then the committee will discuss if it is worthwhile to provide legislation to support this idea. He expressed hope that there will be a bill at some point, but he hopes to get information in the current meeting to drive the direction of such legislation.

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REPRESENTATIVE JOSEPHSON asked about the National Electrical Contractors Association (NECA) electrical standards, which are usually used as a model.

MR. SPINELLI responded that what gets adopted is confusing. He explained that there are electrical and plumbing codes that are adopted by the state that apply to residential construction, but there are no mechanical or building codes adopted by the state that apply to residential construction. Lots of places in Alaska have a fleet of codes that apply, but several areas don't have a code, and in areas without codes some agencies have adopted some, but not all codes. He stated there is a lot of

confusion and little to no enforcement. He mentioned that he chooses to build to a code because of liability reasons.

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REPRESENTATIVE JOSEPHSON mentioned House Bill 81, sponsored by Representative Tilton during the Twenty-Ninth Alaska State Legislature, which allowed any Alaskan to build an owner-occupied home, but would not allow two owner-occupied homes within a two or three year period. He asked if that bill might be part of the solution to ensure quality.

MR. SPINELLI stated his belief that the two issues are closely related. A statewide building code and statewide record of who built and inspected each structure address the same issue. Mr. Spinelli offered his understanding that the attorney general has said the current law is too vague to enforce. House Bill 81 attempted to clarify that law. He believes a statewide building code could help keep some of that from happening.

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REPRESENTATIVE KNOPP offered his recollection that there were previous codes he believed everyone "operated under." He asked if the nation operates under the International Residential Book now.

MR. SPINELLI stated he has worked under a few previous codes. He detailed the International Code Council (ICC), which has the international building codes for commercial, international mechanical, as well as its own plumbing, electrical, and energy code. Most of what is used is the international building code, the international residential code, and the international energy code. He offered his understanding that the plumbing and electrical trades have lobbied to stick with the preferred older codes, the National Electrical Code (NEC) and Universal Plumbing Codes (UPC). He gave his understanding that most of the country has switched to the international code, but in some areas plumbing and electrical trade unions have opted out and stuck with a different code.

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CHAIR KITO stated John Anderson from Alaska Housing Finance can answer questions about the codes themselves.

REPRESENTATIVE KNOPP asked if Mr. Spinelli is advocating for every trade to adhere to codes or a consolidation of all codes. He asked if the proposal is to ensure that everyone builds to the codes that are in place today. He asked if the organization wants every municipality to adopt the same code.

MR. SPINELLI stated that every jurisdiction he has dealt with has used the international code, and some jurisdictions might use something else, but the [ASHBA] supports the International Residential Code. The International Residential Code covers one- and two-family dwellings, duplexes, and townhomes. Mr. Spinelli stated he ran into issues with the Fire Marshall in Wasilla about the area of code that designates the difference between connected single family homes and fourplexes. He emphasized the confusion is so bad that the state Fire Marshall now has a radio advertisement stating that builders must talk to them before building a fourplex.

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CHAIR KITO asked if the aforementioned volunteer website is still working.

MR. SPINELLI stated he does not think the website is still active; it lasted for about a year and a half and then "fizzled out."

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REPRESENTATIVE WOOL asked if, in areas that don't have a code, authority defers to the Fire Marshall's code, and he asked what code the Fire Marshall uses.

MR. SPINELLI responded that there is no a code for one- and two-family dwellings. However, a fourplex is considered a commercial building by the local Fire Marshall's office, which will regulate it because of that classification. In areas outside the state there is a building code for commercial buildings, but not something for one- and two family-residential structures.

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JOHN ANDERSON, Director, Research & Rural Development, Alaska Housing Finance Corporation (AHFC), stated that AHFC is a public corporation that provides housing, finance, and energy programs and pays dividends back to the state. The mission of the

corporation is to provide Alaskans with access to safe, quality, and affordable housing. The expertise at AHFC includes bonds and financing, a variety of loan programs, distribution of federally funded tax credits and state dollars, public housing in statewide avenues regarding vouchers and things of that nature, and energy programs.

MR. ANDERSON referenced a PowerPoint presentation, entitled "Alaska Building Codes," which covers a brief history of building codes, the AHFC's situation regarding building codes, benefits of building codes for AHFC and consumers, AHFC building code compliance process, and previous work on building codes. Referring to slide 3 and 4, he discussed the housing market crash in the late 1980s that resulted in approximately 25,000 foreclosures. Close to one billion dollars was spent to retrofit homes to bring them up to code, which lead to statutory placement of standards regarding building codes and energy efficiency standards within AHFC under AS 18.56.300 and AS 46.11.040.

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MR. ANDERSON stated AHFC currently operates under the 2012 IRC, which includes: the Alaska Housing Building Energy Efficiency Standard (BEES), which he said is the same as Chapter 11 of the IRC code, and Alaska specific amendments to the code allow for regional and geographic variability. As shown on slide 5, he listed benefits of having building codes, including: public health and safety, quality, affordability, cost savings, and investment value protection. He remarked, "We believe that building right at the beginning ensures a building's quality, safety, and energy performance for years to come."

MR. ANDERSON referred to page 6 of the presentation, which covers AHFC Building Code Compliance Process. The forms used are called PUR 101 and PUR 102, and Mr. Anderson noted there is no lasting definition of PUR, just a designation for the forms. The PUR 101 documents and certifies compliance with minimum energy efficiency standards and is completed by an energy rater through AHFC's modeling software. The PUR 102 relates to the inspections required for compliance with minimum building standards - the structural components - and are completed by a third party certified by ICC. Currently AHFC has 14 different jurisdictions that are approved for authority that have adopted codes equal to or more stringent than AFHC's codes. In those areas, AHFC defers to the local jurisdiction and accepts a

certificate of occupancy (CO) from the approved jurisdiction in lieu of PUR 102.

MR. ANDERSON referred to slide 7 and stated that in the past 5 years, AHFC has done a lot of work with Cold Climate Housing Research Center (CCHRC), Renewable Energy Alaska Project (REAP), and the federal Department of Energy. This work includes new documents regarding a strategic plan, a construction code gap analysis, and a state-wide code analysis of existing statutes and regulations. He summarized his presentation as an update of where AHFC exists within the codes as required by statute. He remarked, "This is only in effect when it pertains to Alaska Housing [Finance Corporation] financing, and our programs and/or our projects."

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CHAIR KITO asked if AHFC requires the 2012 residential code for anything funded through AHFC. He also asked if that creates a disparate system where some houses are being constructed in accordance with the 2012 code outside of the delegated jurisdictions and some are not.

MR. ANDERSON stated that is correct, but he is not certain of the number. There is construction happening outside of AHFC's knowledge, some of which is following the process for future sale. Following the process now is a lot easier than coming in after and trying to meet the standard.

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REPRESENTATIVE BIRCH asked for Mr. Anderson's sense of the costs associated with inspection and compliance with the code, and asked if inspections are administered through AHFC.

MR. ANDERSON stated that AHFC does not administer [the inspections]; AHFC has a "private public partnership" with the entity that performs the inspections. That entity charges market value for its services. He offered his understanding that the process to receive certification through the PUR 101 costs roughly between \$500 and \$1,000; PUR 102 or the CO inspection process costs roughly \$2,000-\$3,000 and involves multiple visits throughout the building process.

REPRESENTATIVE BIRCH responded that he thinks the objective is well intended. He stated his concern for the cost.

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REPRESENTATIVE JOSEPHSON asked if this proposal has been vetted enough that [legislation] should be prepared this session, in Juneau, by Legislative Legal and Research Services attorneys.

MR. ANDERSON stated his belief that a lot of work has been done. Notwithstanding that, he said he is not sure if there is a black and white answer. The governor's housing summit presented solutions for consideration. He stated he is unsure if the issue is simple enough to have a bill drafted. The AHFC has not been involved in any discussions about what a bill would look like.

REPRESENTATIVE JOSEPHSON stated that policy calls must be made. He gave an example: If someone built something way off the grid, then there might be a different expectation of conformity to standards than elsewhere.

MR. ANDERSON agreed. He stated that considerations would be made for remote, extreme remote, and recreational properties, and all variables need to be discussed.

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CHAIR KITO asked if there is an upcoming plan to update the residential code adopted by AHFC from 2012.

MR. ANDERSON responded that AHFC reviewed the 2015 IRC code, and the board elected not to update [the standards] until 2018 at the earliest.

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ADJOURNMENT

There being no further business before the committee, the House Labor & Commerce Standing Committee meeting was adjourned at 3:59 p.m.