

Amendment to SB 113

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Duties of the State Fire Marshal; Approval of Local Amendments. Amend RSA 153:4-a, I to
4 read as follows:

5 I. The state fire marshal shall have the power to approve, disapprove, or allow exceptions to
6 any fire safety rule of any state agency except fire safety rules established under RSA 227-L. The
7 state fire marshal shall be responsible for supervising and enforcing all laws of the state relative to
8 the protection of life and property from fire, fire hazards and related matters, and for certifying
9 private firefighting units. The state fire marshal shall also ***review and approve any local code,***
10 ***bylaw, or ordinance relative to fire safety prior to its adoption and enforcement by the***
11 ***municipality. The state fire marshal shall*** assist the several counties, cities, towns, village
12 districts, and precincts in supervising and enforcing local laws, bylaws, and ordinances where
13 existent, relative to (a) the prevention of fires; (b) the storage, sale and use of combustibles; (c) the
14 installation and maintenance of automatic or other fire alarm systems and fire extinguishing
15 equipment; (d) the construction, maintenance, and regulation of fire escapes; (e) the means and
16 adequacy of exit, in case of fire, from factories, asylums, hotels, hospitals, churches, schools, halls,
17 theaters, amphitheaters, nursing and convalescent homes, and all other places in which numbers of
18 persons work, live or congregate from time to time for any purpose; (f) the investigation of the cause,
19 origin, and circumstances of fires; and (g) the transportation, storage, and physical handling of
20 flammable liquids and gases which he believes dangerous to the lives or safety of the citizens of the
21 state.

22 2 New Paragraph; Duties of the State Fire Marshal; Local Amendments to the State Fire Code.
23 Amend RSA 153:4-a by inserting after paragraph IV the following new paragraph:

24 V. The state fire marshal, in consultation with the state advisory board of fire control, shall
25 review and approve any local code, bylaw, or ordinance relative to fire safety prior to its adoption
26 and enforcement by the municipality. The fire marshal may limit approval to the submitting
27 municipality or the fire marshal may permit its adoption and enforcement on a statewide basis. A
28 local fire safety code, bylaw, or ordinance approved on a statewide basis may be subsequently
29 adopted and enforced by municipalities upon notice to the fire marshal of its adoption. The fire
30 marshal, with the assistance of the state advisory board of fire control, shall maintain and publish a
31 catalog of all municipal fire safety codes, bylaws, and ordinances.

32 3 State Fire Code; Rules. Amend RSA 153:5, V to read as follows:

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1 V. The state fire marshal, and the local fire chief, in accordance with RSA 154:2, shall use
2 the state fire code, including rules adopted under paragraph I, and any local codes adopted in
3 accordance with ***RSA 153:4-a and*** RSA 47:22 or RSA 155-A:3, for the purposes of new construction,
4 additions, and alterations. It is the intent of the legislature to avoid conflicts in the adoption and
5 application of the state building code and the state fire code.

6 4 New Paragraph; New Hampshire Building Code; Local Amendment; Approval By Building
7 Code Review Board or State Fire Marshal Required. Amend RSA 155-A:3 by inserting after
8 paragraph IV the following new paragraph:

9 V. The municipality shall not adopt or enforce a local ordinance or regulation amending the
10 state building code or state fire code unless approved by the state building code review board
11 pursuant to RSA 155-A:10, IV-a relative to the state building code or the state fire marshal pursuant
12 to RSA 153:4-a, V relative to the state fire code.

13 5 Enforcement Authority; Building Code Violation; Fee to Appeal Decision of Local Enforcement
14 Agency Prohibited. Amend RSA 155-A:7, IV to read as follows:

15 IV. All local enforcement agencies and selectmen and the state fire marshal in those
16 communities without a local enforcement agency shall provide information on the local and state
17 appeals process when issuing a building permit or notice of violation. ***No fee shall be required to***
18 ***appeal a notice of violation or other decision of a code compliance officer.***

19 6 New Paragraph; State Building Code Review Board; Approval of Local Amendments. Amend
20 RSA 155-A:10 by inserting after paragraph IV the following new paragraph:

21 IV-a. Any local ordinance or regulation that amends the state building code shall be
22 approved by the board prior to its adoption and enforcement by the municipality. The board may
23 limit its approval to the municipality submitting the amendment or the board may issue approval on
24 a statewide basis. Any amendment approved on a statewide basis may be subsequently adopted and
25 enforced by municipalities upon notice to the board of adoption.

26 7 State Building Code Review Board; List of Municipal Amendments to Building Code and Fire
27 Code. Amend RSA 155-A:10, V to read as follows:

28 V. The board shall maintain a publicly accessible list of applicable building codes and
29 amendments to such codes. Amendments proposed by municipalities shall be listed, with specific
30 applicability if not statewide. ***The board shall also maintain a publicly accessible copy of the***
31 ***state fire code, with a list of municipal amendments thereto.***

32 8 Local Land Use Planning and Regulatory Powers; Power to Amend State Building Code and
33 Establish Enforcement Procedures. Amend RSA 674:51, I and II to read as follows:

34 I. The local legislative body may enact as an ordinance or adopt, pursuant to the procedures
35 of RSA 675:2-4, additional provisions of the state building code for the construction, remodeling, and
36 maintenance of all buildings and structures in the municipality, provided that ***prior to its adoption***
37 ***and enforcement, the local ordinance or regulation is approved by the state building code***

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1 **review board and** such additional regulations are not less stringent than the requirements of the
2 state building code. The local legislative body may also enact a process for the enforcement of the
3 state building code and any additional regulations thereto[, and the provisions of a nationally
4 recognized code that are not included in and are not inconsistent with the state building code]. Any
5 local enforcement process adopted prior to the effective date of this paragraph shall remain in effect
6 unless it conflicts with the state building code or is amended or repealed by the municipality.

7 II. Any such ordinance adopted under paragraph I by a local legislative body shall be
8 submitted to the state building code review board for [informational purposes] **approval prior to**
9 **its adoption and enforcement.**

10 9 Powers of Building Code Board of Appeals. Amend RSA 674:34 to read as follows:

11 674:34 Powers of Building Code Board of Appeals. The building code board of appeals shall hear
12 and decide appeals of orders, decisions, or determinations made by the building official or fire official
13 relative to the application and interpretation of the state building code or state fire code as defined
14 in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code
15 or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not
16 fully apply, or an equally good or better form of construction is proposed. **No fee shall be required**
17 **to file an appeal under this section.** The board shall have no authority to waive requirements of
18 the state building code or the state fire code.

19 10 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill:

I. Requires the building code review board to approve local amendments to the state building code prior to their adoption and enforcement and requires the board to maintain and publish a catalog of local amendments to the state building code and state fire code.

II. Requires the fire marshal to approve local amendments to the state fire code prior to their adoption and enforcement and requires the fire marshal, with the assistance of the board of fire control, to maintain and publish a catalog of local fire safety codes and ordinances.

III. Prohibits municipalities from imposing a fee to appeal the decision of a code compliance official.