

HOUSE BILL NO. 236

INTRODUCED BY D. FERN

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING CERTIFIED LOCAL GOVERNMENT BUILDING CODE PROGRAMS; ALLOWING A LOCAL GOVERNMENT TO ACCUMULATE FEES AND CHARGES NECESSARY FOR BUILDING CODE ENFORCEMENT FOR AN INCREASED PERIOD OF TIME; AND AMENDING SECTION 50-60-106, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 50-60-106, MCA, is amended to read:

**"50-60-106. Powers and duties of counties, cities, and towns.** (1) As allowed by Title 50, chapter 60, part 3, the examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the limits of a city or town are the responsibility of the city or town. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code enforcement program are the responsibility of the county.

(2) Each county, city, or town certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or county, city, or town building code, subject to the powers of variance or modification granted to the department;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice



1 of plan disapproval within 10 working days of the contractor's submission;

2 (d) during and in the course of construction, order in writing the remedying of any condition found to exist  
3 in, on, or about any building that is being constructed in violation of the state building code or county, city, or town  
4 building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending  
5 by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the  
6 application for permission for the construction of the building. A county, city, or town certified pursuant to  
7 50-60-302, by action of its building official, may grant in writing time as may be reasonably necessary for  
8 achieving compliance with the order. For the purposes of subsection (2)(a) and this subsection (2)(d), the phrase  
9 "during and in the course of construction" refers to the construction of a building until all necessary building  
10 permits have been obtained and all work authorized by those permits has been fully approved by the building  
11 official having jurisdiction.

12 (e) issue certificates of occupancy as provided in 50-60-107;

13 (f) issue permits, licenses, and other required documents in connection with the construction of a  
14 building;

15 (g) ensure that all construction-related fees or charges imposed and collected by the county, city, or town  
16 are necessary, reasonable, and uniform and are:

17 (i) except as provided in subsection (2)(g)(iii), used only for building code enforcement, which consists  
18 of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building  
19 codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying  
20 administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund,  
21 they must also be waived for the program established in this section. Indirect charges are limited to the charges  
22 that are allowed under federal cost accounting principles that are applicable to a local government.

23 (ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce  
24 building codes for ~~42~~ 24 months, BASED ON THE AVERAGE OF ACTUAL EXPENDITURES OVER THE PREVIOUS 3 YEARS.  
25 The excess must be placed in a reserve account and may be used only for building code enforcement. Collection  
26 and expenditure of fees and charges must be fully documented.

27 (iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or  
28 charges collected, for the building codes education program established in 50-60-116.

29 (3) Each county, city, or town with a building code enforcement program that has been certified under  
30 50-60-302 may, within the area of its jurisdiction:

1 (a) make, amend, and repeal rules for the administration and enforcement of the provisions of this  
2 section and for the collection of fees and charges related to construction; and

3 (b) prohibit the commencement of construction until a permit has been issued by the building code  
4 enforcement authority having jurisdiction after a showing of compliance with the requirements of the applicable  
5 provisions of the state building code or county, city, or town building code or other county, city, or town ordinance  
6 or resolution that pertains to the proposed construction. A county, city, or town subject to this subsection (3) may,  
7 as part of its building code or by town ordinance or resolution, adopt voluntary energy conservation standards  
8 for new construction for the purpose of providing incentives to encourage voluntary energy conservation. The  
9 incentive-based energy conservation standards adopted may exceed any applicable energy conservation  
10 standards contained in the state building code. New construction is not required to meet local standards that  
11 exceed state energy conservation standards unless the building contractor elects to receive a local incentive.

12 (4) Each county, city, or town with a building code enforcement program that has been certified under  
13 50-60-302 may perform inspections of buildings that are outside its jurisdictional limits, subject to the following  
14 conditions:

15 (a) The inspections are requested in writing by the owners or builders of the buildings to be inspected.

16 (b) The inspections are not done in lieu of inspections by another county, city, or town that has  
17 jurisdiction over the buildings to be inspected.

18 (c) (i) The county, city, or town powers of enforcement possessed as a result of building code  
19 enforcement certification by the department may not be exercised in conjunction with the requested inspections.

20 (ii) Similar powers of building code enforcement may not be contractually created or required by the  
21 requester and the inspecting jurisdiction.

22 (5) In situations in which buildings may be annexed into an inspecting city's or town's jurisdiction  
23 subsequent to a requested inspection, the city or town may not require owners or builders to have duplicative  
24 inspections of those buildings prior to annexation as a condition precedent to receiving any public services or  
25 utilities."

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