



State of Tennessee

PUBLIC CHAPTER NO. 332

HOUSE BILL NO. 749

By Representatives Boyd, Smith, Keisling, Sparks, Lynn, Todd, Mannis

Substituted for: Senate Bill No. 631

By Senators Bell, Massey

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 120, relative to construction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-120-101, is amended by deleting subdivision (a)(5) and substituting:

(5) Shall not discriminate against or in favor of particular construction materials or construction techniques;

SECTION 2. Tennessee Code Annotated, Section 68-120-101(b), is amended by adding the following as a new subdivision:

(7)

(A)

(i) Notwithstanding subdivision (a)(5), a local government may adopt a regulation or code, pertaining to construction materials by ordinance or resolution, as appropriate, by majority vote.

(ii) If passage of the ordinance or resolution requires two (2) readings, then the requirement may only be adopted after reading it in open session of the legislative body at meetings on two (2) different days.

(iii) If passage of the ordinance or resolution requires three (3) readings, then the last two (2) readings must occur on two (2) different days.

(iv) A proposed requirement pertaining to construction materials must be a separate item on the agenda and include, in bold type and all caps, the following statement in the meeting notice:

THE PROPOSED ORDINANCE REQUIRES CERTAIN MATERIALS TO BE RESTRICTED IN THE CONSTRUCTION OF BUILDINGS.

(B) The consideration of a requirement pertaining to construction materials must be by separate vote. If the requirement is to be part of a general ordinance or resolution, then the requirement pertaining to construction materials must be severable from the rest of the ordinance or resolution, and voted on separately.

(C) If a local government seeks to modify a regulation, code, or ordinance adopted pursuant to this subdivision (b)(7), then the local government shall make the modification in the same manner as required to adopt a requirement under this subdivision (b)(7).

(D) A regulation, ordinance, or code adopted pursuant to this subdivision (b)(7) shall not prohibit a particular construction material that is approved by a national building code or the state fire marshal.

HB749

(E) A regulation, ordinance, or code adopted pursuant to this subdivision (b)(7) must allow for the consideration of waivers of the adopted regulation, ordinance, or code pertaining to construction materials, in whole or in part, during the development approval process.

(F) Denial of a waiver related to a regulation, ordinance, or code referenced in subdivision (b)(7)(E) does not constitute a prohibition under subdivision (b)(7)(D).

(G) Except to the extent local law conflicts with these provisions, this section neither grants nor removes local governmental authority to promulgate provisions under home rule charters, private acts, or general state law.

(H) This subdivision (b)(7) does not limit the professional judgment of a licensed design professional with respect to electrical, mechanical, or plumbing standards.

SECTION 3. For purposes of local government adoption of a regulation, code, or ordinance relating to construction materials, this act takes effect upon becoming law, the public welfare requiring it. For all other purposes, this act takes effect September 1, 2021, the public welfare requiring it.

HOUSE BILL NO. 749

PASSED: April 21, 2021



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 4th day of May 2021



BILL LEE, GOVERNOR