

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER d: ENERGY CODES

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ILLINOIS ENERGY CONSERVATION CODE

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AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 11355, effective July 26, 2004, for a maximum of 150 days; emergency rules expired December 22, 2004; adopted at 29 Ill. Reg. 777, effective January 1, 2005; new Part adopted by emergency rulemaking at 29 Ill. Reg. 5736, effective April 8, 2005, for a maximum of 150 days; emergency expired September 4, 2005; emergency rulemaking repealed at 29 Ill. Reg. 6093, effective April 18, 2005, for a maximum of 150 days; emergency expired September 14, 2005; old Part repealed at 29 Ill. Reg. 16414 and new Part adopted at 29 Ill. Reg. 14790, effective April 8, 2006; amended at 31 Ill. Reg. 14422, effective October 9, 2007; emergency amendment at 33 Ill. Reg. 12407, effective August 18, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16702, effective November 23, 2009; emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days.

SUBPART A: GENERAL

**Section 600.100 Definitions
EMERGENCY**

Definitions of terms in the International Energy Conservation Code, incorporated by reference in Subpart C of this Part, apply, as do the following definitions:

"Act" means the Capital Development Board Act [20 ILCS 3105].

"Authority Having Jurisdiction" or "AHJ" means the organization, office or individual responsible for approving equipment, materials, an installation or procedure.

"CDB" means the Illinois Capital Development Board.

"Commercial Facility" means any building except a building that is classified as a residential building. [20 ILCS 3125/10]

"Council" means the Illinois Energy Conservation Advisory Council appointed under Subpart B of this Part.

"EEB Act" means the Energy Efficient Building Act [20 ILCS 3125].

"Professional Services Agreement" means the contract for services entered into by CDB and design professionals.

"Using Agency" means the State agency using facilities described in Section 4.01 of the Act.

"Illinois Energy Conservation Code" or "Code" means:

With respect to the State facilities covered by Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards), and any statutorily authorized adaptations to the incorporated standards adopted by CDB; and

With respect to the privately funded commercial facilities covered by Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the 2009 International Energy Conservation Code, excluding published supplements, which encompasses ASHRAE 90.1), and any statutorily authorized adaptations to the incorporated standards adopted by CDB.

With respect to the residential buildings covered by Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the 2009 International Energy Conservation Code, excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB.

"IECC" means the International Energy Conservation Code.

"Municipality" means any city, village or incorporated town. [20 ILCS 3125/10]

"Residential Building" means (i) a detached one-family or 2-family dwelling or (ii) any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent. [20 ILCS 3125/10]

"State Funded Building" means and includes buildings under the jurisdiction of each officer, department, board, commission, institution and body politic and corporate of the State, including the Illinois Building Authority, school districts, and any other person expending or encumbering State or federal funds by virtue of an appropriation or other authorization by the General Assembly or federal authorization or grant. This includes State funded *housing, hospitals, penitentiaries, laboratories, educational facilities, administrative facilities, recreational facilities, environmental equipment and parking facilities* [20 ILCS 3105/4.01].

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 600.110 Adoption and Modification of the Code
EMERGENCY**

- a) The purpose of the Illinois Energy Conservation Code is to implement Section 10.09-5 of the Capital Development Board Act [20 ILCS 3105/10.09-5], which requires CDB to adopt rules implementing a statewide Energy Code. Additionally, Section 15 of the Energy Efficient Commercial Building Act [20 ILCS 3125/15] requires CDB to officially adopt, as a minimum requirement, the 2009 International Energy Conservation Code, excluding any published supplements, to apply that Code to all commercial structures in Illinois, and to assist local code officials with enforcing the requirements of the Code.
- b) This Code as described in Subpart B (State facilities) is effective July 26, 2004. This Code as described in Subpart C (privately-funded commercial facilities) is effective April 8, 2007. The Code as described in Subpart D (residential buildings) is effective January 9, 2010.
- c) Application of the Code
 - 1) State Facilities. The Code as described in Subpart B of this Part applies to all State facilities for which money has been appropriated or authorized by the General Assembly.
 - 2) Privately Funded Commercial Facilities and Residential Buildings. The Code as described in Subparts C and D of this Part applies *to any new building or structure in this State for which a building permit application is received by a municipality or county.* [20 ILCS 3125/20]
 - A) Additions, alterations, renovations, or repairs to an existing building, building system, or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code. [20 ILCS 3125/20(c)]
 - B) All exceptions listed in the Code related to additions, alterations, renovations or repairs to an existing building are acceptable provided the energy use of the building is not increased.
- d) This Code, together with the standards incorporated by reference in this Part, has the force of a building code and is administrative law applicable in the State of Illinois.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART B: STATE FUNDED FACILITIES**Section 600.210 Request for Variance
EMERGENCY**

- a) Who May File a Request for Variance
 - 1) Any architect or engineer under contract with CDB to provide professional services for the proposed project.
 - 2) The using agency's chief executive officer or his or her designated representative.
 - 3) The Chairman of the Illinois Energy Conservation Advisory Council.
- b) Consideration of Request for Variance

A variance from any requirement of the Code as described in this Subpart will be granted by CDB for one or more of the following reasons only:

 - 1) Compliance would not be technically feasible.
 - 2) Compliance would compromise the health, welfare or safety of building occupants.
 - 3) Compliance would prevent the building from serving its intended purpose.
 - 4) Compliance would violate another State or federal law or code.
 - 5) Compliance would increase the energy consumption of the building.
 - 6) Compliance would require the use of inferior products or materials.
- c) Submitting the Request for Variance
 - 1) The request shall be submitted to the CDB Project Manager.
 - 2) Requests should be submitted as early in the project as there is cause, but no later than 75 days prior to the anticipated bid date. Approval or denial of a variance shall be no cause for delay in the project unless the request for variance was filed by CDB or the using agency for which the project is being constructed.

- 3) The following shall be submitted when requesting a variance:
 - A) A letter from the petitioner stating the specific provisions of the Code from which the variance is requested and a detailed explanation of how compliance with the Code would result in one or more of the conditions described in subsection (b).
 - B) The request shall include supporting data, calculations, analysis, etc.
- d) CDB Action
 - 1) Upon receipt of the Request for Variance, the CDB Project Manager will review the request and make a recommendation to CDB's Professional Services Unit within 7 calendar days.
 - 2) Professional Services Unit will evaluate the Request for Variance within 30 days after CDB's receipt of the Request and make a determination.
 - 3) If it is determined that the Request for Variance would cause one of the conditions stated in subsection (b), the variance shall be approved by CDB.
 - 4) If it is determined that the Request for Variance would not cause one of the conditions stated in subsection (b), the Agency may:
 - A) Deny the Request for Variance.
 - B) Approve the Request for Variance subject to specific conditions determined by CDB.
- e) Modifications and Revisions
The petitioner may, in writing, request that the original Request for Variance be modified and resubmit the Request for Variance.
- f) Revocation
CDB may revoke any variance if:
 - 1) it is determined that the variance was obtained through fraud or deceit;
 - 2) the petitioner has violated the specific conditions on which the variance was approved; or

- 3) the variance was issued in error.
- g) Appeals
- 1) Any person whose Request for Variance is denied or approved with conditions may appeal CDB's initial determination. The appeal shall be submitted in writing and must be received within 10 days after the initial CDB action is received by the requestor. The request shall be submitted to the Chairman of the Advisory Council.
 - 2) The Chairman of the Advisory Council will review the request with the Advisory Council, as deemed necessary by the Chairman, within 14 days after receipt and take one of the following actions:
 - A) Uphold CDB's initial determination.
 - B) Reverse CDB's initial determination and issue the variance.
 - C) Change the conditions applied to the variance granted by CDB.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section 600.300 Standards for Privately Funded Commercial Facilities**EMERGENCY**

- a) The 2009 International Energy Conservation Code (IECC), excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to privately funded commercial facilities, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) **Modifications to IECC**
Under Section 15 of the EEB Act, when applying the Code to privately funded commercial facilities, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 600.320 Local Jurisdiction
EMERGENCY**

- a) Construction projects involving privately funded commercial facilities and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. *In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described by this Subpart C applies only to the portions of that structure that are being added, altered, renovated or repaired.* [20 ILCS 3125/20(a)]
- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. The AHJ is authorized to enforce a building code that differs with the Code as described in this Subpart C, but any standards applied by an AHJ must be at least as stringent as the Code as described in this Subpart C.
- c) A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce, or administer the Code; however, any energy efficient building standards adopted by a unit of local government must comply with this Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation, or addition, to buildings or structures is subject to the provisions contained in this Act.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 600.340 Application to Home Rule Units
EMERGENCY

No unit of local government, including any home rule unit, may apply energy efficient building standards to privately funded commercial facilities in a manner that is less stringent than the Code as described in this Subpart C. However, nothing in the EEB Act or this Subpart prevents a unit of local government from adopting an energy efficiency code or standards that are more stringent than this Code. [20 ILCS 3125/45]

(Source: Amended by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART D: RESIDENTIAL BUILDINGS

Section 600.400 Standards for Residential Buildings**EMERGENCY**

- a) The 2009 International Energy Conservation Code (IECC), excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to residential buildings, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) **Modifications to IECC**
Under Section 15 of the EEB Act, when applying the Code to residential buildings, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority.

(Source: Added by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 600.410 Exemptions
EMERGENCY**

- a) The following buildings are exempt from the Code:
- 1) *Buildings otherwise exempt from the provisions of a locally adopted building code and buildings that do not contain a conditioned space;*
 - 2) *Buildings that do not use either electricity or fossil fuel for comfort conditioning;*
 - 3) *Historic buildings listed on the National Register of Historic Places or the Illinois Register of Historic Places, and those buildings that are designated by authorized personnel as historically significant;*
 - 4) *Other buildings specified as exempt by the IECC. [20 ILCS 3125/20]*
- b) *For the purposes of determining whether an exemption authorized under subsection (a)(2) applies, a building will be presumed to be heated by electricity, even in the absence of equipment used for electric comfort heating, whenever the building is provided with electrical service in excess of 100 amps, unless the code enforcement official determines that this electrical services is necessary for purposes other than providing electric comfort heating. [20 ILCS 3125/20(b)(2)]*

(Source: Added by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 600.420 Local Jurisdiction
EMERGENCY**

- a) Construction projects involving residential buildings and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. *In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described by this Subpart C applies only to the portions of that structure that are being added, altered, renovated or repaired.* [20 ILCS 3125/20(a)]
- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code.
- c) No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established pursuant to this Subpart D; provided, however, that the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Subpart D: (i) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code, (ii) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code, and (iii) a municipality with a population of 1,000,000 or more. No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in [20 ILCS 3125/15], may hereafter enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government.

(Source: Added by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 600.430 Compliance
EMERGENCY**

- a) Compliance with the Illinois Energy Conservation Code as described by this Subpart D (applicable to residential buildings) shall be determined by the local authority having jurisdiction (AHJ).
- b) Minimum compliance shall be demonstrated by submission of:
 - 1) Compliance Certificates generated by the U.S. Department of Energy's REScheck code compliance tool; or
 - 2) Other comparable compliance materials that meet or exceed, as determined by the authority having jurisdiction, U.S. Department of Energy's REScheck code compliance tool; or
 - 3) The seal of the Architect/Engineer as required by Section 14 of the Illinois Architecture Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

(Source: Added by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 600.440 Application to Home Rule Units
EMERGENCY

No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is less or more stringent than the standards established pursuant to this Subpart D.

(Source: Added by emergency rulemaking at 34 Ill. Reg. _____, effective _____, for a maximum of 150 days)