

IN THE SENATE

SENATE BILL NO. 1067

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1  
2 RELATING TO BUILDING CODES; AMENDING SECTION 39-4105, IDAHO CODE, TO DEFINE  
3 THE TERM "OWNER-BUILDER" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
4 SECTION 39-4116, IDAHO CODE, TO PROVIDE EXEMPTIONS FOR OWNER-BUILDERS;  
5 AND AMENDING SECTION 55-2506, IDAHO CODE, TO PROVIDE FOR ADDITIONAL  
6 DISCLOSURE INFORMATION.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 39-4105, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 39-4105. DEFINITIONS. As used in this chapter, the terms defined in  
11 this section shall have the following meanings, unless the context clearly  
12 indicates another meaning. Where terms are not defined in this chapter and  
13 are defined in the currently adopted International Building Code published  
14 by the International Code Council, such terms shall have the meanings as-  
15 cribed to them in that code:

16 (1) "Administrator" means the administrator of the division of build-  
17 ing safety for the state of Idaho.

18 (2) "Board" means the Idaho building code board, herein created.

19 (3) "Building inspector" means a person who inspects buildings or  
20 structures for compliance with the provisions of this chapter.

21 (4) "Construction" means the erection, fabrication, reconstruction,  
22 demolition, alteration, conversion, or repair of a building, or the instal-  
23 lation of equipment therein normally a part of the structure.

24 (5) "Division" means the state of Idaho division of building safety.

25 (6) "International Fire Code" means the International Fire Code as pub-  
26 lished by the International Code Council.

27 (7) "Local government" means any city or county of this state.

28 (8) "Manufactured home" means a structure, constructed after June 15,  
29 1976, in accordance with the HUD manufactured home construction and safety  
30 standards, and is transportable in one (1) or more sections, which, in the  
31 traveling mode, is eight (8) body feet or more in width or is forty (40) body  
32 feet or more in length, or when erected on site, is three hundred twenty  
33 (320) or more square feet, and which is built on a permanent chassis and de-  
34 signed to be used as a dwelling with or without a permanent foundation when  
35 connected to the required utilities, and includes the plumbing, heating,  
36 air conditioning, and electrical systems contained therein, except that  
37 such term shall include any structure which meets all the requirements of  
38 this subsection except the size requirements and with respect to which the  
39 manufacturer voluntarily files a certification required by the secretary of  
40 housing and urban development and complies with the standards established  
41 under 42 U.S.C. ~~section~~ 5401 et seq.

1 (9) "Mobile home" means a factory-assembled structure or structures  
 2 generally constructed prior to June 15, 1976, and equipped with the neces-  
 3 sary service connections and made so as to be readily movable as a unit or  
 4 units on their own running gear and designed to be used as a dwelling unit or  
 5 units with or without a permanent foundation.

6 (10) "Owner-builder" means an individual who:

7 (a) Holds title to real property:

8 (i) In such individual's own name;

9 (ii) In such individual's name as co-tenant with one (1) or more  
 10 other individuals, provided such individual owns not less than  
 11 eighty percent (80%) of the beneficial ownership of such property;

12 (iii) In trust for the benefit of such individual or such individ-  
 13 ual's parents, spouse or issue; or

14 (iv) In a limited liability company or partnership, provided such  
 15 individual owns not less than eighty percent (80%) of the equity  
 16 interest in such limited liability company or partnership; and

17 (b) Builds, erects or constructs or who acts in the capacity of his or  
 18 her own "general contractor" for the purpose of building, erecting or  
 19 constructing one (1) or more structures on such real property for domes-  
 20 tic purposes. For purposes of the owner-builder designation, permitted  
 21 structures shall be limited to single family residences (no duplexes,  
 22 triplexes or other multi-family structures) and appurtenant structures  
 23 including, without limitation, barns, shops, unattached garages, and  
 24 farm buildings.

25 (c) For purposes of this subsection, an individual and his or her spouse  
 26 shall be deemed to be one (1) individual.

27 (d) No contractor or other person receiving compensation or remuner-  
 28 ation for building, erecting, constructing, advising, managing or  
 29 otherwise assisting with the improvement of such real property shall be  
 30 deemed to be an owner-builder.

31 (e) Nothing in this subsection shall preclude an owner-builder from  
 32 hiring subcontractors or employees for the purpose of building, erect-  
 33 ing or constructing improvements on such real property.

34 (f) An individual, including spouses who shall be deemed to be one (1)  
 35 individual for purposes of the owner-builder designation, shall not  
 36 be eligible to claim owner-builder status for a period of seven (7)  
 37 years after making a prior application to qualify as an owner-builder.  
 38 Provided that this restriction shall allow construction of one (1) sin-  
 39 gle family residence and local allowable accessory buildings for the  
 40 owner's personal long-term habitation on a parcel or contiguous parcels  
 41 only once during the seven (7) year period.

42 (101) "Telecommunications facilities" means all wires, cables, equip-  
 43 ment, apparatus or other installations necessary to furnish service, by  
 44 which there is accomplished or may be accomplished, the sending or receiving  
 45 of information, data, message writing signs, signals, pictures, and sounds  
 46 of all kinds, by aid of such wires, cables, equipment, apparatus or other  
 47 installations, but shall not include the habitable structure in which such  
 48 telecommunications facilities are housed.

49 SECTION 2. That Section 39-4116, Idaho Code, be, and the same is hereby  
 50 amended to read as follows:

1           39-4116. LOCAL GOVERNMENT ADOPTION AND ENFORCEMENT OF BUILDING  
2 CODES. (1) Local governments enforcing building codes shall do so only in  
3 compliance with the provisions of this section. Local governments that have  
4 not previously instituted and implemented a code enforcement program prior  
5 to the effective date of this act may elect to implement a building code  
6 enforcement program by passing an ordinance evidencing the intent to do so.  
7 Local governments may contract with a public or private entity to administer  
8 their building code enforcement program.

9           (2) Local governments that issue building permits and perform build-  
10 ing code enforcement activities shall, by ordinance effective January 1 of  
11 the year following the adoption by the Idaho building code board, adopt the  
12 following codes as published by the International Code Council together with  
13 any amendments or revisions set forth in section 39-4109, Idaho Code, in-  
14 cluding subsequent versions of the International Building Code as adopted  
15 and amended by the Idaho building code board through the negotiated rulemak-  
16 ing process provided in this chapter:

17           (a) International Building Code, including all rules promulgated by  
18 the board to provide equivalency with the provisions of the Americans  
19 with disabilities act accessibility guidelines and the federal fair  
20 housing act accessibility guidelines;

21           (b) Idaho residential code, parts I-IV and IX; and

22           (c) Idaho energy conservation code.

23 Local governments are not required by this chapter to adopt the other refer-  
24 enced codes in the International Building Code.

25           (3) All single family homes and multiple family dwellings up to two  
26 (2) units are hereby exempted from the provisions of the International Fire  
27 Code, the International Building Code and the Idaho residential code that  
28 require such dwellings to have automatic fire sprinkler systems installed.  
29 Nothing in this section shall prevent any person from voluntarily installing  
30 an automatic fire sprinkler system in any residential dwelling.

31           (4) Local governments may amend by ordinance the adopted codes or pro-  
32 visions of referenced codes to reflect local concerns, provided such amend-  
33 ments establish at least an equivalent level of protection to that of the  
34 adopted building code. A local jurisdiction shall not have the authority to  
35 amend any accessibility provision pursuant to section 39-4109, Idaho Code,  
36 except as provided in paragraphs (a) and (b) of this subsection.

37           (a) A local jurisdiction shall not have the authority to amend any ac-  
38 cessibility provision pursuant to section 39-4109, Idaho Code.

39           (b) A local jurisdiction shall not adopt any provision of the Interna-  
40 tional Building Code or Idaho residential code or appendices thereto  
41 that has not been adopted or that has been expressly rejected or ex-  
42 empted from the adopted version of those codes by the Idaho building  
43 code board through the negotiated rulemaking process as provided in  
44 section 39-4109, Idaho Code. Provided however, that, after a finding by  
45 the local jurisdiction that good cause exists for such an amendment to  
46 such codes and that such amendment is reasonably necessary, a local ju-  
47 risdiction may adopt such provision by ordinance in accordance with the  
48 provisions of chapter 9, title 50, Idaho Code, and provided further that  
49 such local jurisdiction shall conduct a public hearing and, provided  
50 further, that notice of the time and place of the public hearing shall

1 be published in the official newspaper or paper of general circulation  
2 within the jurisdiction and written notice of each of such public hear-  
3 ing and the proposed language shall be given by the local jurisdiction  
4 to the local chapters of the entities identified in section 39-4109(5),  
5 Idaho Code, not less than thirty (30) days prior to such hearing. In the  
6 event that there are no local chapters of such entities identified in  
7 section 39-4109(5), Idaho Code, within the local jurisdiction holding  
8 the hearings, the notice shall be provided to the state associations of  
9 the respective entities.

10 (c) Notwithstanding the foregoing, a local jurisdiction that issues  
11 building permits and performs building code enforcement activities  
12 may adopt an exemption from adopted codes for owner-builders as such  
13 term is defined in section 39-4105(10), Idaho Code. A local juris-  
14 isdiction adopting an exemption from adopted codes for owner-builders  
15 may require an owner-builder to notify such local jurisdiction of the  
16 owner-builder's intent to build and impose a reasonable fee in connec-  
17 tion with the required notice. Notice hereunder shall be in the form and  
18 manner promulgated by such local jurisdiction from time to time. A lo-  
19 cal jurisdiction shall have the ability to issue building site permits  
20 that would ensure compliance with planning and zoning and environmental  
21 concerns, facilitate property tax appraisal, facilitate tracking for  
22 real estate disclosure purposes, and require engineering on habitable  
23 structures and structures exceeding two thousand five hundred (2,500)  
24 square feet of area.

25 (5) Local governments shall exempt agricultural buildings from the re-  
26 quirements of the codes enumerated in this chapter and the rules promulgated  
27 by the board. A county may issue permits for farm buildings to assure com-  
28 pliance with road setbacks and utility easements, provided that the cost for  
29 such permits shall not exceed the actual cost to the county of issuing the  
30 permits.

31 (6) Permits shall be governed by the laws in effect at the time the per-  
32 mit application is received.

33 (7) The division shall retain jurisdiction for in-plant inspections  
34 and installation standards for manufactured or mobile homes and for in-plant  
35 inspections and enforcement of construction standards for modular buildings  
36 and commercial coaches.

37 SECTION 3. That Section 55-2506, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 55-2506. DISCLOSURE INFORMATION. The information required in this  
40 chapter shall be set forth on the form set out in section 55-2508, Idaho  
41 Code. Alternative forms may be substituted for those set out in section  
42 55-2508, Idaho Code, provided that alternative forms include the disclosure  
43 information as set forth in section 55-2506, Idaho Code, and the manda-  
44 tory disclosure statements set forth in section 55-2507, Idaho Code. The  
45 form must be designed to permit the transferor to disclose material mat-  
46 ters relating to the physical condition of the property to be transferred  
47 including, but not limited to, the source of water supply to the property;  
48 the nature of the sewer system serving the property; the condition of the  
49 structure of the property including the roof, foundation, walls and floors;

1 the known presence of hazardous materials or substances. In addition to the  
2 requirements set forth herein, if a local jurisdiction adopts the provisions  
3 of section 39-4116(4) (c), Idaho Code, allowing for exemption from building  
4 codes for owner-builders, as that term is defined in section 39-4105(10),  
5 Idaho Code, the transferor must clearly and distinctly disclose whether or  
6 not the property is subject to the exemption under section 39-4116(4) (c) and  
7 the form must be designed to require the transferor to disclose whether the  
8 property was subject to the applicable building code exemption.