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September 23, 2013

Re: Senate Bill 1023

To The Honorable Members of the Pennsylvania Senate Labor and Industry Committee:

The National Fire Sprinkler Association (NFSA) appreciates the opportunity to provide testimony on behalf of its members on Pennsylvania Senate Bill 1023, legislation Amending the Act of November 10, 1999 (P.L. 491, No. 45) Known as the Pennsylvania Construction Code Act.

NFSA is a trade organization representing the interests of the U.S. fire sprinkler industry. NFSA recognizes that thoughtful improvements to the Pennsylvania Uniform Construction Code (“UCC”) need to be made in order to ensure that the UCC is updated in a timely, transparent, and more predictable manner.

In 2012, the RAC attempted to review all 900 code changes in accordance with the UCC’s “opt-in” process. Each proposed code change must be adopted by a 2/3 majority of the RAC. The RAC does not have the time, expertise or resources to perform this enormous task. As a result, the RAC simply voted to reject all code change updates.

NFSA believes that the “opt-out” model in SB 1023 would significantly improve processes at the RAC. With the opt-out model, new code provisions would go into effect unless specifically excluded by the RAC. This will promote a more streamlined, timely, transparent, and predictable code review and adoption process for all stakeholders involved, and allow the RAC to focus only on controversial code provisions.

In addition, NFSA firmly believes that maintaining a three-year review and adoption period that coincides with the national model code publishing cycle is the best way to ensure an even standard of safety for all occupants in the built environment. A three-year cycle ensures that the codes incorporate the latest advancements in life safety technology, structure, and material resilience of buildings in the face of natural disasters.

Other witnesses have addressed the structure of the International Code Council’s (“ICC”) model code structure, and we will not repeat the information here. However, we would like to bring to your attention the issue of so-called “Reference Standards” that are incorporated into the ICC codes.

The ICC codes create the structure, but standards from over 35 trade-specific, and safety organizations and agencies are incorporated by reference. For example, over 200 National Fire Protection Association standards and recommended practices including the National Electrical Safety Code; Concrete standards for masonry construction and fire resistance from the American Concrete Institute; several hundred testing standards from

the American Society of Testing Materials (ASTM); Safety standards from the Consumer Products Safety Commission; and Underwrites Laboratories Approvals. The standards referenced by these organizations and agencies also have revision cycles, which are typically one cycle behind the ICC codes. So, the 2009 International Building Code (IBC) incorporates the 2006 NFPA 31 Installation of Oil Burning Equipment standard, when a cycle of the ICC codes is skipped the reference standard will be at least two cycles behind. If the Review and Advisory Council (“RAC”) does not opt-in to the updated referenced standards, the impact will be the same.

Another concern regarding the review and revision of the building codes involves the Building Code Effectiveness Grading Schedule (“BCEGS”). The BCEGS is used by the Insurance Services Office (“ISO”) to evaluate community risk from natural hazards. The Federal Emergency Management Agency (“FEMA”) and private insurers look to the community’s BCEGS ratings to determine the cost of insurance and the amount of funding to provide in the wake of natural disasters.

The BCEGS rating system places special emphasis on mitigation of losses from natural hazards. For each community, ISO’s BCEGS program develops a relative Building Code Effectiveness Classification for insurance rating and underwriting purposes. ISO analyzes data and assigns each municipality a BCEGS grade of 1 (exemplary commitment to building-code enforcement) to 10.

A community’s classification depends on key criteria, including staffing levels and qualifications of plan reviewers and field inspectors, *code adoption and amendment*, and the community’s commitment to building-code enforcement. ISO also takes into account public-awareness programs and code-development activities in a community, details of the building department’s review of plans for residential and commercial buildings, thoroughness of the inspection process, and zoning provisions in force to mitigate natural hazards.

A community’s BCEGS rating is a prime factor in Federally Funded National Flood Insurance Program (“NFIP”) and FEMA Disaster Recovery Funding. Because of the growing acceptance of the BCEGS concept we expect more of its features will find its way into the ISO PPC assessment process.

What does all this mean? Well, if Community A has a BCEGS Grade of 2 and the neighboring Community B has a BCEGS Grade of 5 there will be a 15% less FEMA Disaster recovery offering after a wind-force or earthquake disaster.

Let’s use an example using two houses of equal value, let’s say \$300,000, one located in Community A and the other in Community B have equal hurricane damage, \$60,000 roof and interior damage. The Governor declares a Natural Disaster and FEMA Disaster recovery funding kicks in. FEMA may offer the home in Community A \$40,000 to help recover. But the identical home in Community B may only be offered \$34,000 or 15% difference. There is a 5% change in disbursement between each

BCEGS Grade or Community A is a BCEGS Grade 2 and Community B is a Grade 5 or three grade difference = 15%.

The NFIP also uses the BCEGS for rate setting. Those having flood insurance in Community B could be paying more than those for the same value policy in Community A. Many private insurance providers also use the ISO PPS and BCEGS for rate setting and claims payout.

If Pennsylvania continues on its existing path, it could experience what occurred in the State of Massachusetts when the state failed to adopt the International Residential Code every three years.

ISO, in its BCEGS review, downgraded the City of Northhampton, MA from an ISO BCEGS Grade 5 to a Grade 9 – a four grade change solely because the state failed to adopt the statewide code in a timely basis. This meant if a natural disaster had occurred in the City of Northhampton, property owners could have received FEMA disaster mitigation funding at a rate up to 20% less than they would have received if the state adopted the codes in a timely basis. Those who have flood insurance through the NFIP would all have had to pay more because of the grade change. To resolve this issue Massachusetts accelerated the code adoption process.

Pennsylvania should adopt Senate Bill 1023 and reject a six-year code adoption cycle.

For all the reasons expressed in the testimony of other witnesses in support of S.B. 1023 and set forth above, NFSA urges the Pennsylvania Legislature to pass S.B. 1023 and reject any attempt to extend the building code adoption cycle.

Feel free to reach out to NFSA for any additional information.

Respectfully submitted,

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