

# ■ Building Code Requirements

## Issue Overview

Building codes and standards are designed to set a baseline for construction to protect the health and safety of the building's occupants. They are typically developed at the national level by non-profit organizations and are often referred to as "model building codes," because they serve as the starting point for most of the codes adopted at the state and local levels. While their development at the national level implies they are intended for universal use, they are designed to be revised and adapted to fit local conditions such as geography, economy, climate or other factors.

Although referencing building codes in federal legislation and regulatory programs is not new, there has been growing concern over the breadth of programs and issues for which building codes, and in many cases more stringent building codes for new homes are purported to be the answer. This approach unfairly burdens new construction and often does little to meet the intended goals. For example, requiring new homes to meet stringent energy-efficiency goals can price many potential home buyers out of the market and compel them to stay in older, less efficient homes. At a minimum, federal policies and programs need to provide sufficient flexibility and incentives so the intended results can be met with minimal negative impacts.

To provide such flexibility, legislation was passed in 2017 to clarify that any reference to "the latest published code" should be interpreted to mean either of the two most recent editions, plus allow for state and local amendments. Unfortunately, that language expired in 2022. Equally problematic, more recent legislation uses the lure of federal dollars to pressure state and local governments into implementing unnecessary energy efficiency policies and regulations, which will drive up housing prices across the country. Together, this wave of federal initiatives and the growing stringency of building codes is making it harder to provide affordable housing.

## Solutions

- Repeal Section 50131 of the Inflation Reduction Act, Assistance for Latest and Zero Building Energy Code Adoption. Alternatively, the Department of Energy (DOE) should pause implementation of the 50131 program to re-evaluate several of its current requirements, including the lack of flexibility for states and jurisdictions to propose equivalent, amended, and alternative approaches explicitly allowed in the statutory text. DOE should consider issuing new guidance through the Administrative and Legal Requirements Document (ALRD) and Funding Opportunity Announcement (FOA) processes.
- Pass the Promoting Resilient Buildings Act, which permanently codifies the definition of "latest published editions" for FEMA's Building Resilient Infrastructure and Communities (BRIC) program. This allows state and local governments to adopt appropriate, cost-effective building codes, including the latest two editions, without being pressured to adopt only the most recent version.
- Authorize and promote the use of equivalent or amended building codes and standards and alternative compliance paths in all federal programs and policies related to codes.