

Capitol Efforts Save Industry and Consumers Millions

When the Texas Legislature ends the term used is *sine die*. This Latin term is pronounced "cy-nee-die," and it is used in reference to legislatures whose terms or mandates are coming to an end, as in "The Texas Legislature closed its 81st Session today by adjourning *sine die*."

For the residential development and residential construction industry, the 81st Texas Legislature ended "*sine die*" without lawmakers enacting any unnecessary taxes, regulations or fees on the industry. But perhaps the most favorable news from the Capitol is not what failed to become law rather what did become law.

Senate Bill (SB) 1410 was one bill passed into law by Texas lawmakers this past Legislative Session that contains new statutory language of upmost importance to Texas home builders and remodelers, and, more importantly, to Texas homebuyers. The new statutory language is aimed at fire sprinkler requirements in one and two-family dwelling units.

Passing state laws aimed at fire sprinkler requirements became an industry priority after sprinkler mandates were voted into the International Residential Code (IRC) at the 2009 code change hearings. At least eleven states have considered bills that, if passed would prevent the application and enforcement of any building code that mandates fire sprinkler systems in the new construction of single family homes or duplexes. It is estimated that the cost of adding fire sprinklers to new homes in Texas would exceed \$300,000,000 each year.

Texas' SB 1410 legislation was originally filed by Senator Mike Jackson (R- La Porte) to make subtle changes to the licensing and regulation of plumbers. It was filed on March 5, 2009 and moved through the Senate process quickly with little fanfare. However, when the bill was debated by the Texas House of Representatives two amendments were added that attracted the attention of several groups including building code experts, fire service professionals and the home building industry.

The first amendment by Rep. Warren Chisum (R- Pampa) authorizes the Texas State Board of Plumbing Examiners to create an endorsement called a "Multipurpose Residential Fire Protection Sprinkler Specialist." With this endorsement, licensed Journeyman and Master Plumbers will be able to install multipurpose residential fire sprinklers upon completion of a training course and exam administered by the Board.

A multipurpose fire sprinkler system allows the fire sprinkler system and the home's plumbing system to use the same water supply thereby making the water in a multipurpose system potable since it is simply an extension of the domestic plumbing system. A multipurpose system does not require an anti-backflow

prevention device since the water in the sprinkler system is not stagnating as in a “stand alone” system. Having no anti-backflow device means there is one less part to fail in the future and one less item to be maintained.

It is anticipated that a multipurpose system installed by a plumber will cost less than a dedicated system designed and installed by a contractor regulated by the State Fire Marshal. According to the Texas State Board of Plumbing Examiners, rules for plumbers wishing to obtain the Multipurpose Residential Fire Protection Sprinkler Specialist endorsement will be issued by February 1, 2010 and examinations will begin March 1, 2010.

The second and more controversial amendment added to SB 1410 was offered by Rep. John Otto (R- Dayton). Legislatively speaking, this provision was actually an amendment to the multipurpose fire sprinkler specialist amendment cited above. The language of the Otto amendment was nearly identical to the language of a bill titled HB 1511 that he filed earlier in the session. HB 1511 passed out of the House Insurance Committee by unanimous vote but due to legislative deadlines was not brought to the House floor for consideration.

The Otto amendment to SB 1410 prevents a city from enacting any ordinance that requires the installation of a multipurpose fire sprinkler system, or any other fire sprinkler system, in new one and two-family structures or when those structures are remodeled. This amendment effectively prohibits cities from amending current codes to require fire sprinklers in new homes while at the same time it allows cities to adopt the 2009 International Residential Code (IRC) without having to debate whether or not to remove the fire sprinkler requirements contained included in that code. It should be noted that any sprinkler requirements for one and two-family dwelling units in effect prior to January 1, 2009 can still be enforced.

The House debate on the Otto amendment was lively. House members that sided with Otto expressed their desire to keep homes affordable, and to keep the decision to add fire sprinklers with home buyers. House members opposed to the amendment cited their desire to maximize life safety in the building codes. After the debate, SB 1410 with the Otto amendment was approved on a voice vote, but the debating was not over.

The day after the Chisum and Otto amendments were added to SB 1410, the Texas House was set to finally pass the bill on third reading and send it back to the Senate for that chamber to concur or “agree” on the changes made by the House. When the bill was brought up for this critical final House vote, a motion was made to strip out the Otto amendment. This amendment was proposed by Rep. Armando Martinez (D- Weslaco) who is a firefighter and paramedic.

The Martinez proposal again stirred-up a lively debate with House members again stating their positions. The lawmakers appeared to be divided until Rep.

Otto stepped up to the dais microphone and held up a study released by the fire sprinkler industry. The study predicted that due to the fire sprinkler mandates included in the IRC, the fire sprinkler installation industry would grow from the current level of \$100 million annually to nearly \$3 billion annually. The results of this study resonated with lawmakers, and after Rep. Otto's statement the vote on the Martinez proposal was taken. The vote was recorded, and by a 120 to 16 margin the Martinez proposal failed thereby keeping the Otto amendment onto the bill. After that vote the bill easily passed the final vote to send it back to the Senate to be concurred.

Back in the Senate, the bill and amendments added by Chisum and Otto faced yet another debate. During the debate to concur, several Senators spoke for and against the amendments, and the debate again centered on housing affordability, homebuyer choice and the anticipated gains to the fire sprinkler market. If the vote to concur were to fail, the bill would be sent to a "Conference Committee" to settle the differences between the version that passed in the House and the version that passed in the Senate. But in the end, the Senate voted to concur by a 27 to 4 margin thus sending the bill to Governor Rick Perry.

A bill sent to the Governor is the last step in the legislative process. Once a bill is received by the Governor, the Governor has three options: veto the bill, sign it into law or allow it to go into effect without signature. The Governor has only twenty days following *sine die* to decide which action to take.

The push for a Governor's veto began immediately from a variety of special interest groups. Fire service professionals, fire sprinkler installation contractors and fire safety organizations from all across Texas sent letters to the Governor and held press conferences urging him to veto of SB 1410. Home builders sent their own letters explaining the necessity of the bill and why it should be allowed to pass into law. Newspapers in Texas editorialized on the topic, and the television and radio news media carried stories about the bill. In the end, the push for a veto failed when, on June 19, with only two days remaining in the veto period, Governor Rick Perry signed SB 1410 into law.

Now in effect, SB 1410 allows licensed plumbers to obtain an endorsement to install multipurpose fire sprinkler systems, and it also prevents a city from imposing fire sprinkler mandates in single family homes and duplexes.

Although no fire sprinkler mandates are allowed for new home construction, consumers may still opt to add this home safety feature. As such, home builders are strongly encouraged to become familiar with emerging fire sprinkler technology not only to address the potential consumer demand, but also to prepare for the possible return of sprinkler mandates in the future.

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