



"Hot Topics"

by Beck & Poorman, LLC

NOTE:

Information provided in this document is meant to be a general survey of the law and reflect current opinions on general matters only. It should not be relied on to aid in specific legal disputes without further legal consultation.

IDAHO CODE IS AMENDED IN 2008 TO CLARIFY THAT FIRE DISTRICTS HAVE AUTHORITY TO ENFORCE THE INTERNATIONAL FIRE CODE!

In the 2008 Legislative session, the Speaker of the House, Lawrence Denney, worked with the Idaho State Fire Commissioners' Association (ISFCA) to amend certain statutes to make clear that fire districts have the authority as assistants to the State Fire Marshal to enforce the International Fire Code as adopted by the SFM. This legislation was unprecedented, as it clarified the issue of whether individual fire districts had authority to enforce the IFC within individual fire districts. Idaho Fire District lawyer Larry Beck worked closely with ISFCA President Gary Rohwer and Speaker Denney to craft the changes to the existing statutes. They are summarized below.

Even before these powers were clarified in the 2008 legislation, the statute regulating the powers and duties of the state fire marshal provided:

"[t]he chief of the fire department, or his deputy, of every city or county, or fire protection district organized under state law in which a fire department is established, ...shall be assistants to the state fire marshal in carrying out the provisions of the international fire code and such other regulations as set forth by the fire marshal." Idaho Code § 41-256 (2006).

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2008 Amendments to Idaho Code Clarify that Fire District's Can Enforce The International Fire Code

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Section 41-253 was amended to clarify that “Assistants to the State Fire Marshal shall provide a **reasonable interpretation to the IFC** as adopted by the SFM, and rules of the SFM, when undertaking *any enforcement action*.” (Emphasis added).

Section 41-255 was amended to provide that **the SFM will “establish uniform training provisions for all persons acting as assistants to the SFM”**. (The assistants in this section mean district and department fire chiefs, assistant chiefs and fire marshals.)

Section 41-256 was amended to set out that **a local appeals procedure** needs to be established at districts and departments that enforce the IFC, and that **they must provide notice of appeal rights** to any party aggrieved by a local fire code decision.

Section 41-259 provides that all assistants to the SFM with the authority to inspect buildings within their jurisdiction (except for buildings listed as “exempt” in this section) for fire code violations and **to order that violations be remedied or removed by the owner**.

Section 41-260 was amended to provide that local fire code decisions and orders to remedy or remove, can be **appealed to a local appeals board, and then to the SFM’s office. This section provides for a further appeal to the district court.**

Section 41-261 was amended to provide that persons failing to comply with local fire code decisions shall be liable to the enforcing agency for **a fine that can equal up to \$100.00 per day** that the party fails to comply with the local order or decision. The building owner can **also be liable to the enforcing agency for attorney’s fees and costs incurred in bringing the enforcement action.**

41-262 provides that failure to comply with a local order to remedy or remove may result in the local department or district **demolishing or repairing the structure and/or dangerous condition, at the owner’s expense.**

Finally, 41-263 was amended to provide that if an owner fails to pay the costs incurred by the department or district, the bill can be certified to the county or city clerk and they shall certify the same to the county treasurer and **the amounts shall be treated as an assessment to be placed upon the tax rolls and collected by the county and then paid to the local fire district that brought the enforcement action.**