

## SAVE LIVES: PROTECT COPYRIGHTS FOR NATIONAL STANDARDS

### **About Standards:** Protecting Lives, Powering Economic Growth, Saving Taxpayer Dollars

- Rigorous **national codes and standards, essential to public health, safety and security**, are developed by non-profit standards development organizations (SDOs) through a consensus-based process at **no cost to taxpayers**.
- The current standards development system has **worked effectively and efficiently for 125 years**.
- The result has been one of the most successful public-private partnerships in history, **saving countless lives**, creating economic growth and saving billions of taxpayer dollars.
- The development of standards **requires significant resources**, which SDOs typically fund by **selling copies of the standards** to those who use them in the course of their business, like builders and developers.
- As an original work of authorship, SDO **standards are protected by copyright**. Recognizing the public interest in their works, some SDOs make all their standards freely available to view online.

### **The Issue:** Copyrights for Standards Under Attack

- Governments at all levels consider some privately developed standards so valuable that they adopt or **incorporate them by reference** in the legislative or regulatory process.
- Some special interests wrongly argue that this action – a clear public benefit – **forfeits copyright protection** for the entire standard.
- As a result of the special interests' concerted litigation activity, some rulings from lower federal courts have started to call SDOs' copyrights into question. Notwithstanding the immense public benefits and the strong Congressional policy preferring private, consensus-based standards development, these rulings have suggested standards may **lose the benefit of copyright protection** when adopted or incorporated by reference.
- Extinguishing the copyright for a standard adopted or incorporated by reference will make it impossible for SDOs to sell copies of their standards to the professionals who use them, effectively **dismantling the private standards development system**.
- There are **no alternatives** anywhere as effective or efficient as the current system.

### **The Solution:** Make the Copyright Laws Unmistakably Clear that Adoption/Incorporation by Reference Does Not Destroy Copyright for Freely Accessible Standards

Congress should pass a statute making clear that a standard does not lose its copyright protection by virtue of having been adopted or incorporated by reference into law or regulation, provided that the standard is available for free viewing on a publicly accessible website. This solution allows citizens to know what the law is without having to pay for it, while still preserving the efficient and effective SDO system – an important public service – at no cost to the taxpayer.

**Support legislation to protect copyrights for standards adopted or incorporated by reference. *It will save lives.***



## Statutory Language

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting and Enhancing Public Access to Codes Act” or the “Pro Codes Act”.

### SEC. 2. WORKS INCORPORATED BY REFERENCE INTO LAW.

Chapter 1 of title 17, United States Code, is amended by adding at the end the following new section:

#### “§ 123. Works Incorporated by Reference into Law

“(a) WORK INCORPORATED BY REFERENCE INTO LAW OR REGULATION.—An original work of authorship otherwise subject to protection under this title that has been adopted or incorporated by reference, in full or in part, into any Federal, State, or municipal law or regulation, shall retain such protection only if the owner of the copyright makes the work available at no monetary cost for viewing by the public in electronic form on a publicly accessible website in a location on the website that is readily accessible to the public.

“(b) BURDEN OF PROOF.—In any cause of action in which a party asserts that the owner of a copyright has failed to comply with the requirements of subsection (a), the burden of proof shall be on the party making such an assertion to prove that the owner of the copyright has failed to comply.

“(c) TRANSPARENCY.—Nothing in this section shall be construed as inconsistent with the requirements for transparency in Federal expenditure information as set forth in the DATA Act (Public Law 113–101; 31 U.S.C. 6101).”.