

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2762**

By Delegates Nestor, Horst, Clark, Hanna,  
Longanacre, Martin, Hott, Riley, Honaker, Vance, and  
Statler

[Introduced January 18, 2023; Referred to the  
Committee on Fire Departments and Emergency  
Medical Services then Government Organization]

1 A BILL to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring the State Fire Commission to propose rules relating to sprinkler protection,  
3 providing that buildings commencing construction after July 1, 2023, housing emergency  
4 fire, rescue, or ambulance services shall be protected throughout by approved automatic  
5 sprinkler systems; and exempting emergency services buildings meeting certain criteria  
6 that only house equipment and do not have sleeping areas or quarters within them from the  
7 requirement.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 11. FIRE COMMISSION.**

### **§15A-11-5. Promulgation of rules and statewide building code.**

1 (a) The State Fire Commission shall propose rules for legislative approval in accordance  
2 with the provisions of §29A-3-1 *et seq.* of this code to safeguard life and property and to ensure the  
3 quality of construction of all structures erected or renovated throughout this state through the  
4 adoption of a State Building Code. The rule may include provisions regarding building  
5 construction, renovation, and all other aspects as related to the construction and mechanical  
6 operations of a structure. The rule shall include building energy codes. The rules shall be in  
7 accordance with standard safe practices so embodied in widely recognized standards of good  
8 practice for building construction and all aspects related thereto and have force and effect in those  
9 counties and municipalities adopting the State Building Code: *Provided*, That each county or  
10 municipality may adopt the code to the extent that it is only prospective and not retroactive in its  
11 application; *Provided, however*, That buildings or structures utilized primarily for agricultural  
12 purposes shall be exempt from the provisions of the State Building Code, the State Fire Code, and  
13 any county or municipal building code or ordinance that is or may be adopted, such as the ICC  
14 International Property Maintenance Code.

15 (b) The State Fire Commission may establish advisory boards as it considers appropriate  
16 to encourage representative participation in subsequent rulemaking from groups or individuals

17 with an interest in any aspect of the State Building Code or related construction or renovation  
18 practices.

19 (c) For the purpose of this section, the term "building code" is intended to include all  
20 aspects of safe building construction and mechanical operations and all safety aspects related  
21 thereto. Whenever any other state law, county, or municipal ordinance, or regulation of any agency  
22 thereof is more stringent or imposes a higher standard than is required by the State Building Code,  
23 the provisions of the state law, county or municipal ordinance, or regulation of any agency thereof  
24 governs if they are not inconsistent with the laws of West Virginia and are not contrary to  
25 recognized standards and good engineering practices. In any question, the decision of the State  
26 Fire Commission determines the relative priority of any such state law, county or municipal  
27 ordinance, or regulation of any agency thereof, and determines compliance with State Building  
28 Code by officials of the state, counties, municipalities, and political subdivisions of the state.

29 (d) Enforcement of the provisions of the State Building Code is the responsibility of the  
30 respective local jurisdiction. Also, any county or municipality may enter into an agreement with any  
31 other county or municipality to provide inspection and enforcement services: *Provided*, That any  
32 county or municipality may adopt the State Building Code with or without adopting the BOCA  
33 National Property Maintenance Code. If a county adopts a property maintenance code or  
34 ordinance including, but not limited to, the ICC International Property Maintenance Code, such  
35 code or ordinance shall exempt all property used for agricultural purposes or otherwise cause  
36 such property to be exempted from any such code or ordinance from enforcement. Any such code  
37 that may be or is adopted by any county shall be and is unenforceable as to agricultural property.

38 (e) After the State Fire Commission has promulgated rules as provided in this section,  
39 each county or municipality intending to adopt the State Building Code shall notify the State Fire  
40 Marshal of its adoption.

41 (f) The State Fire Commission may conduct public meetings in each county or municipality  
42 adopting the State Building Code to explain the provisions of the rules.

43 (g) The provisions of the State Building Code relating to the construction, repair, alteration,  
44 restoration, and movement of structures are not mandatory for existing buildings and structures  
45 identified and classified by the State Register of Historic Places under the provisions of §29-1-8 of  
46 this code or the National Register of Historic Places, pursuant to 16 U.S.C. §470a. Prior to  
47 renovations regarding the application of the State Building Code, in relation to historical  
48 preservation of structures identified as such, the authority having jurisdiction shall consult with the  
49 Division of Culture and History, State Historic Preservation Office. The final decision is vested in  
50 the State Fire Marshal. Additions constructed on a historic building are not excluded from  
51 complying with the State Building Code.

52 (h) For purposes of this section, the term "agricultural purposes" has the same meaning as  
53 is set forth in §15A-11-3 of this code.

54 (i) The State Fire Commission shall propose rules for legislative approval in accordance  
55 with the provisions of §29A-3-1 et seq. of this code relating to sprinkler protection, specifically  
56 providing that buildings commencing construction after July 1, 2023, housing emergency fire,  
57 rescue, or ambulance services shall be protected throughout by approved automatic sprinkler  
58 systems: *Provided*, That emergency services buildings that house only equipment, and do not  
59 have designated sleeping areas or quarters within them, regardless when constructed or  
60 commencing construction, are exempt from this requirement.

NOTE: The purpose of this bill is to require the State Fire Commission to propose rules providing that buildings commencing construction after July 1, 2023, housing emergency fire, rescue, or ambulance services shall be protected throughout by approved automatic sprinkler systems, and providing an exemption.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.