

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4444

BY DELEGATES FRICH, BYRD, COOPER, A. EVANS,
HAMILTON, LOVE, MAYNARD, PUSHKIN, STATLER, BUTLER
AND PAYNTER

(BY REQUEST OF THE FIRE MARSHAL)

[Originating in the Committee on Government

Organization; February 21, 2018.]

1 A BILL to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating
2 to clarifying the authority of the State Fire Commission in adopting a State Building Code
3 with regard to establishing building energy savings codes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5b. 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
3 the quality of construction of all structures erected or renovated throughout this state through the
4 adoption of a State Building Code. The rules shall be in accordance with standard safe practices
5 so embodied in widely recognized standards of good practice for building construction and all
6 aspects related thereto and have force and effect in those counties and municipalities adopting
7 the State Building Code: *Provided*, That each county or municipality may adopt the code to the
8 extent that it is only prospective and not retroactive in its application.

9 (b) The State Fire Commission ~~has authority to~~ may propose rules for legislative approval
10 in accordance with the provisions of §29A-3-1 *et seq.* of this code, regarding building construction,
11 renovation and all other aspects as related to the construction and mechanical operations of a
12 structure. The rules shall be known as the State Building Code.

13 (c) The State Fire Commission shall propose a rule for legislative approval in accordance
14 with the provisions of article three, chapter twenty-nine-a of this code to include ~~the following~~
15 building energy codes in the State Building Code.

16 ~~(1) The 2009 edition of the International Energy Conservation Code for residential~~
17 ~~buildings or other building energy code or codes for residential buildings that meets or exceeds~~
18 ~~equivalent energy savings; and~~

19 ~~(2) The ANSI/ASHRAE/IESNA Standard 90.1-2007 building energy code for commercial~~
20 ~~buildings or other building energy code or codes for commercial buildings that meets or exceeds~~
21 ~~equivalent energy savings~~

22 (d) (1) The State Fire Commission ~~has authority to~~ may propose rules for legislative
23 approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, establishing state
24 standards and fee schedules for the licensing, registration, certification, regulation and continuing
25 education of persons which will conduct inspections relating to the State Building Code, which
26 include, but are not limited to, building code officials, inspectors, plans examiners and home
27 inspectors.

28 (2) The State Fire Commission shall propose rules for legislative approval requiring
29 applicants for home inspector licensing, registration or certification to submit to a state and
30 national criminal history record check as set forth in this section and may deny licensing,
31 registration or certification based upon the results of the criminal history record check.

32 (e) The State Fire Commission ~~has authority to~~ may establish advisory boards as it ~~deems~~
33 considers appropriate to encourage representative participation in subsequent rulemaking from
34 groups or individuals with an interest in any aspect of the State Building Code or related
35 construction or renovation practices.

36 (f) For the purpose of this section, the term “building code” is intended to include all
37 aspects of safe building construction and mechanical operations and all safety aspects related
38 thereto. Whenever any other state law, county or municipal ordinance or regulation of any agency
39 thereof is more stringent or imposes a higher standard than is required by the State Building
40 Code, the provisions of the state law, county or municipal ordinance or regulation of any agency
41 thereof governs if they are not inconsistent with the laws of West Virginia and are not contrary to
42 recognized standards and good engineering practices. In any question, the decision of the State
43 Fire Commission determines the relative priority of any such state law, county or municipal

44 ordinance or regulation of any agency thereof and determines compliance with State Building
45 Code by officials of the state, counties, municipalities and political subdivisions of the state.

46 (g) Enforcement of the provisions of the State Building Code is the responsibility of the
47 respective local jurisdiction. Also, any county or municipality may enter into an agreement with
48 any other county or municipality to provide inspection and enforcement services: *Provided*, That
49 any county or municipality may adopt the State Building Code with or without adopting the BOCA
50 National Property Maintenance Code.

51 (h) After the State Fire Commission has promulgated rules as provided in this section,
52 each county or municipality intending to adopt the State Building Code shall notify the State Fire
53 Commission of its intent.

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

56 (j) The provisions of the State Building Code relating to the construction, repair, alteration,
57 restoration and movement of structures are not mandatory for existing buildings and structures
58 identified and classified by the State Register of Historic Places under the provisions of section
59 eight, article one of this chapter or the National Register of Historic Places, pursuant to 16 U. S.
60 C. §470a. Prior to renovations regarding the application of the State Building Code, in relation to
61 historical preservation of structures identified as such, the authority having jurisdiction shall
62 consult with the Division of Culture and History, State Historic Preservation Office. The final
63 decision is vested in the State Fire Commission. Additions constructed on a historic building are
64 not excluded from complying with the State Building Code.

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