

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2663**

BY DELEGATES COOPER, SUMMERS, CADLE, ANDERSON,

AND PORTERFIELD

[Originating in the Committee on Government

Organization; February 13, 2020.]



1 A BILL to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating  
2 to exempting buildings or structures utilized exclusively for agricultural production or  
3 storage purposes from the provisions of the State Building Code which may be adopted  
4 by any county or municipality; exempting property used for agricultural purposes from  
5 county property maintenance codes or ordinances and limiting the exemption to  
6 agricultural operations to only those with not more than 5 full time annual employees.

*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 (1) : *Provided*, That each county or municipality may adopt the code to  
8 the extent that it is only prospective and not retroactive in its application; and: (2) buildings or  
9 structures utilized exclusively for agricultural production or storage purposes shall be exempt from  
10 the provisions of the State Building Code which may be adopted by any county or municipality.

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

15 (c) The State Fire Commission shall propose a rule for legislative approval in accordance  
16 with the provisions of §29A-3-1 *et seq.* of this code to include building energy codes in the State  
17 Building Code.

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

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

27           (e) The State Fire Commission may establish advisory boards as it considers appropriate  
28 to encourage representative participation in subsequent rulemaking from groups or individuals  
29 with an interest in any aspect of the State Building Code or related construction or renovation  
30 practices.

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

41           (g) Enforcement of the provisions of the State Building Code is the responsibility of the  
42 respective local jurisdiction. Also, any county or municipality may enter into an agreement with  
43 any other county or municipality to provide inspection and enforcement services: *Provided, That*

44 any county or municipality may adopt the State Building Code with or without adopting the BOCA  
45 National Property Maintenance Code. If a county adopts a property maintenance code or  
46 ordinance including, but not limited to, the ICC International Property Maintenance Code, such  
47 code or ordinance shall exempt all property used for agricultural purposes. Any such code  
48 heretofore adopted by any county shall be and is unenforceable as to agricultural property:  
49 Provided, That the agricultural operation does not have more than five full time annual employees.

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

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

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

NOTE: The purpose of this bill is to exempt buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code which may be adopted by any county or municipality.

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