

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2823

BY DELEGATES COOPER AND PINSON

[Originating in the Committee on Government

Organization; March 15, 2021]

1 A BILL to amend and reenact §15A-11-3 and §15A-11-5 of the Code of West Virginia, 1931, as
2 amended, relating to exempting buildings or structures utilized primarily for agricultural
3 purposes from the provisions of the State Building Code and State Fire Code; exempting
4 buildings or structures used exclusively for agricultural purposes from any county or
5 municipal building code or ordinance that is adopted or may be adopted; defining the term
6 “agricultural purposes”; requiring any county or municipality that adopts a property
7 maintenance code or ordinance to exempt all property used primarily for agricultural
8 purposes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. FIRE COMMISSION.

§15A-11-3. Promulgation of rules and State Fire Code.

1 (a) Pursuant to the provisions of § 29A-3- 1 *et seq.* of this code, the State Fire Commission
2 shall propose and promulgate comprehensive rules for the safeguarding of life and property from
3 the hazards of fire and explosion to be known as the State Fire Code. Rules embodied in the
4 State Fire Code shall be in accordance with standard safe practice as embodied in widely
5 recognized standards of good practice for fire prevention and fire protection and have the force
6 and effect of law in the several counties, municipalities, and political subdivisions of the state:
7 Provided, That buildings or structures utilized primarily for agricultural purposes shall be exempt
8 from the provisions of the State Building Code, the State Fire Code, and any county or municipal
9 building code or ordinance that is or may be adopted, such as the ICC International Property
10 Maintenance Code. The rule shall include, but not be limited to, standard safe practices for the
11 design, construction, location, installation, maintenance, and operation of liquefied petroleum gas
12 systems, and training standards and qualifications for persons who install or maintain liquefied
13 petroleum gas systems.

14 (b) The State Fire Commission may establish work groups and seek input in the
15 rulemaking process from groups or individuals with an interest in any aspect of the fire code.

16 (c) For purposes of this section, the term “agricultural purposes” means the raising,
17 cultivation, drying, harvesting, marketing, production, or storage of agricultural products, including
18 both crops and livestock, for sale or use in agriculture or agricultural production, or the storage of
19 machinery or equipment used in support of agricultural production.

§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
3 the 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,
13 and any county or municipal building code or ordinance that is or may be adopted, such as the
14 ICC 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

22 agency thereof is more stringent or imposes a higher standard than is required by the State
23 Building Code, the provisions of the state law, county or municipal ordinance, or regulation of any
24 agency thereof governs if they are not inconsistent with the laws of West Virginia and are not
25 contrary to recognized standards and good engineering practices. In any question, the decision
26 of the State Fire Commission determines the relative priority of any such state law, county or
27 municipal ordinance, or regulation of any agency thereof, and determines compliance with State
28 Building Code by officials of the state, counties, municipalities, and political subdivisions of the
29 state.

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

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

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

44 (g) The provisions of the State Building Code relating to the construction, repair, alteration,
45 restoration, and movement of structures are not mandatory for existing buildings and structures
46 identified and classified by the State Register of Historic Places under the provisions of §29-1-8
47 of this code or the National Register of Historic Places, pursuant to 16 U.S.C. §470a. Prior to

48 renovations regarding the application of the State Building Code, in relation to historical
49 preservation of structures identified as such, the authority having jurisdiction shall consult with the
50 Division of Culture and History, State Historic Preservation Office. The final decision is vested in
51 the State Fire Marshal. Additions constructed on a historic building are not excluded from
52 complying with the State Building Code.

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

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