WEST virginia legislature

2024 regular session

Committee Substitute

for

Senate Bill 629

By Senators Trump and Hamilton

[Originating in the Committee on Government Organization; reported February 9, 2024]

A BILL to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating to State Building Code; authorizing State Fire Commission to promulgate emergency rules; making State Building Code applicable in all counties and every municipality on date certain; clarifying that building code is applicable prospectively in counties and municipalities that did not previously adopt it; and requiring builder to follow provisions of State Building Code in construction or renovation of a structure even if county or municipality does not provide inspection and enforcement services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. FIRE COMMISSION.

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

(a) The State Fire Commission shall propose rules for legislative approval and shall promulgate emergency rules in accordance with the provisions of §29A-3-1 *et seq*. of this code to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state through the adoption of a State Building Code. The rule may include provisions regarding building construction, renovation, and all other aspects as related to the construction and mechanical operations of a structure. The rule shall include building energy codes. The rules shall be in accordance with standard safe practices ~~so~~ embodied in widely recognized standards of good practice for building construction and all aspects related thereto and have force and effect in ~~those counties and municipalities adopting the State Building Code~~ all 55 counties and each municipality after July 1, 2025: *Provided*, That for each county or municipality ~~may adopt the code to the extent~~ that did not adopt the code prior to the effective date of this section it is only prospective and not retroactive in its application: *Provided, however*, That buildings or structures ~~utilized~~ used primarily for agricultural purposes ~~shall be~~ are exempt from the provisions of the State Building Code, the State Fire Code, and any county or municipal building code or ordinance that is or may be adopted, such as the ICC International Property Maintenance Code.

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

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

~~(d)~~ (c) Enforcement of the provisions of the State Building Code is the responsibility of the respective local jurisdiction. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services: *Provided*, That if a county or municipality does not provide inspection and enforcement services, a builder is still required to follow the provisions of the State Building Code in the construction or renovation of a structure: *Provided, however*, That ~~any~~ a county or municipality ~~may adopt the State Building Code with or without adopting the BOCA National Property Maintenance Code~~ is not required to adopt the ICC International Property Maintenance Code. If a county or municipality adopts a property maintenance code or ordinance including, but not limited to, the ICC International Property Maintenance Code, such code or ordinance shall exempt all property used for agricultural purposes or otherwise cause such property to be exempted from any such code or ordinance from enforcement. Any such code that may be or is adopted by any county or municipality shall be and is unenforceable as to agricultural property.

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

~~(f)~~ (d) The State Fire Commission may conduct public meetings in each county or municipality ~~adopting the State Building Code~~ to explain the provisions of the rules and to encourage representative participation in subsequent rulemaking from groups or individuals with an interest in any aspect of the State Building Code or related construction or renovation practices.

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

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