

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

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)

[Passed March 5, 2018; in effect ninety days from passage.]

1 AN ACT 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; modifying requirement that State
3 Fire Commission propose certain building energy codes; and making stylistic and
4 technical changes.

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 may propose rules for legislative approval in accordance
10 with the provisions of §29A-3-1 *et seq.* of this code, regarding building construction, renovation
11 and all other aspects as related to the construction and mechanical operations of a structure. The
12 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 building energy
15 codes in the State Building Code.

16 (d) (1) The State Fire Commission may propose rules for legislative approval, in
17 accordance with the provisions of §29A-3-1 *et seq.* of this code, establishing state standards and
18 fee schedules for the licensing, registration, certification, regulation and continuing education of

19 persons which will conduct inspections relating to the State Building Code, which include, but are
20 not limited to, building code officials, inspectors, plans examiners and home inspectors.

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

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

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

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor