

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 635

BY SENATORS HAMILTON AND LINDSAY

[Originating in the Committee on Government Organization;

reported on March 26, 2021]

1 A BILL to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the State Fire Commission to propose rules regarding specifically to sprinkler
3 protection and fire protection requirements; requiring sprinkler systems and compliance
4 with fire protection requirements for basements exceeding 2,500 square feet in buildings
5 constructed after certain date; requiring sprinkler systems throughout buildings
6 constructed after certain date housing emergency fire, rescue, or ambulance services;
7 and exempting emergency services buildings that house only equipment and do not have
8 sleeping areas or quarters within them.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. FIRE COMMISSION.

§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.

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

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

27 (d) Enforcement of the provisions of the State Building Code is the responsibility of the
28 respective local jurisdiction. Also, any county or municipality may enter into an agreement with
29 any other county or municipality to provide inspection and enforcement services: *Provided*, That
30 any county or municipality may adopt the State Building Code with or without adopting the BOCA
31 National Property Maintenance Code.

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

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

37 (g) The provisions of the State Building Code relating to the construction, repair, alteration,
38 restoration, and movement of structures are not mandatory for existing buildings and structures
39 identified and classified by the State Register of Historic Places under the provisions of §29-1-8
40 of this code or the National Register of Historic Places, pursuant to 16 U.S.C. §470a. Prior to
41 renovations regarding the application of the State Building Code, in relation to historical

42 preservation of structures identified as such, the authority having jurisdiction shall consult with the
43 Division of Arts, Culture, and History, State Historic Preservation Office. The final decision is
44 vested in the State Fire Marshal. Additions constructed on a historic building are not excluded
45 from complying with the State Building Code.

46 (h) The State Fire Commission shall propose rules for legislative approval in accordance
47 with the provisions of §29A-3-1 et seq. of this code relating to sprinkler protection, specifically
48 providing that buildings commencing construction after July 1, 2021, housing emergency fire,
49 rescue, or ambulance services shall be protected throughout by approved automatic sprinkler
50 systems: *Provided*, That emergency services buildings that house only equipment and do not
51 have designated sleeping areas or quarters within them, regardless when constructed or
52 commencing construction, are exempt from this requirement.