

1 **ENROLLED**

2 **Senate Bill No. 652**

3 (BY SENATORS SNYDER, JENKINS, BOLEY AND TUCKER)

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5 [Passed April 13, 2013; in effect from passage.]  
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10 AN ACT to amend and reenact §29-3-5b of the Code of West Virginia,  
11 1931, as amended, relating to criminal background checks for  
12 home inspector license applicants; and providing rule-making  
13 authority to the State Fire Commission to require criminal  
14 background checks for home inspector license applicants.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §29-3-5b of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

19 **§29-3-5b. Promulgation of rules and statewide building code.**

20 (a) The State Fire Commission shall propose rules for  
21 legislative approval in accordance with the provisions of article  
22 three, chapter twenty-nine-a of this code to safeguard life and

1 property and to ensure the quality of construction of all  
2 structures erected or renovated throughout this state through the  
3 adoption of a State Building Code. The rules shall be in  
4 accordance with standard safe practices so embodied in widely  
5 recognized standards of good practice for building construction and  
6 all aspects related thereto and have force and effect in those  
7 counties and municipalities adopting the State Building Code:  
8 *Provided*, That each county or municipality may adopt the code to  
9 the extent that it is only prospective and not retroactive in its  
10 application.

11 (b) The State Fire Commission has authority to propose rules  
12 for legislative approval in accordance with the provisions of  
13 article three, chapter twenty-nine-a of this code, regarding  
14 building construction, renovation and all other aspects as related  
15 to the construction and mechanical operations of a structure. The  
16 rules shall be known as the State Building Code.

17 (c) The State Fire Commission shall propose a rule for  
18 legislative approval in accordance with the provisions of article  
19 three, chapter twenty-nine-a of this code to include the following  
20 building energy codes in the State Building Code:

21 (1) The 2009 edition of the International Energy Conservation  
22 Code for residential buildings or other building energy code or  
23 codes for residential buildings that meets or exceeds equivalent

1 energy savings; and

2       (2) The ANSI/ASHRAE/IESNA Standard 90.1-2007 building energy  
3 code for commercial buildings or other building energy code or  
4 codes for commercial buildings that meets or exceeds equivalent  
5 energy savings.

6       (d) (1) The State Fire Commission has authority to propose  
7 rules for legislative approval, in accordance with the provisions  
8 of article three, chapter twenty-nine-a of this code, establishing  
9 state standards and fee schedules for the licensing, registration,  
10 certification, regulation and continuing education of persons which  
11 will conduct inspections relating to the State Building Code, which  
12 include, but are not limited to, building code officials,  
13 inspectors, plans examiners and home inspectors.

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

20       (e) The State Fire Commission has authority to establish  
21 advisory boards as it deems appropriate to encourage representative  
22 participation in subsequent rulemaking from groups or individuals  
23 with an interest in any aspect of the State Building Code or

1 related construction or renovation practices.

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

17       (g) Enforcement of the provisions of the State Building Code  
18 is the responsibility of the respective local jurisdiction. Also,  
19 any county or municipality may enter into an agreement with any  
20 other county or municipality to provide inspection and enforcement  
21 services: *Provided*, That any county or municipality may adopt the  
22 State Building Code with or without adopting the BOCA National  
23 Property Maintenance Code.

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

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

8 (j) The provisions of the State Building Code relating to the  
9 construction, repair, alteration, restoration and movement of  
10 structures are not mandatory for existing buildings and structures  
11 identified and classified by the State Register of Historic Places  
12 under the provisions of section eight, article one of this chapter  
13 or the National Register of Historic Places, pursuant to 16 U. S.  
14 C. §470a. Prior to renovations regarding the application of the  
15 State Building Code, in relation to historical preservation of  
16 structures identified as such, the authority having jurisdiction  
17 shall consult with the Division of Culture and History, State  
18 Historic Preservation Office. The final decision is vested in the  
19 State Fire Commission. Additions constructed on a historic  
20 building are not excluded from complying with the State Building  
21 Code.