

# Senate Bill No. 652

(By Senators Snyder, Jenkins, Boley and Tucker)

---

[Introduced March 25, 2013;  
referred to the Committee on Government Organization.]

---

A BILL to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating to criminal background checks for applicants for home inspectors.

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

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

## **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
- 2 legislative approval in accordance with the provisions of
- 3 article three, chapter twenty-nine-a of this code to safeguard
- 4 life and property and to ensure the quality of construction of

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

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

21 (c) The State Fire Commission shall propose a rule for  
22 legislative approval in accordance with the provisions of

23 article three, chapter twenty-nine-a of this code to include the  
24 following building energy codes in the State Building Code:

25 (1) The 2009 edition of the International Energy  
26 Conservation Code for residential buildings or other building  
27 energy code or codes for residential buildings that meets or  
28 exceeds equivalent energy savings; and

29 (2) The ANSI/ASHRAE/IESNA Standard 90.1-2007  
30 building energy code for commercial buildings or other  
31 building energy code or codes for commercial buildings that  
32 meets or exceeds equivalent energy savings.

33 (d) (1) The State Fire Commission has authority to  
34 propose rules for legislative approval, in accordance with the  
35 provisions of article three, chapter twenty-nine-a,  
36 establishing state standards and fee schedules for the  
37 licensing, registration, certification, regulation and  
38 continuing education of persons which will conduct  
39 inspections relating to the State Building Code, which  
40 include, but are not limited to, building code officials,  
41 inspectors, plans examiners and home inspectors.

42       (2) The State Fire Commission may propose rules for  
43 legislative approval requiring applicants for home inspector  
44 licensing, registration or certification to submit to a state and  
45 national criminal history record check as set forth in this  
46 section.

47       (e) The State Fire Commission has authority to establish  
48 advisory boards as it deems appropriate to encourage  
49 representative participation in subsequent rulemaking from  
50 groups or individuals with an interest in any aspect of the  
51 State Building Code or related construction or renovation  
52 practices.

53       (f) For the purpose of this section, the term “building  
54 code” is intended to include all aspects of safe building  
55 construction and mechanical operations and all safety aspects  
56 related thereto. Whenever any other state law, county or  
57 municipal ordinance or regulation of any agency thereof is  
58 more stringent or imposes a higher standard than is required  
59 by the State Building Code, the provisions of the state law,

60 county or municipal ordinance or regulation of any agency  
61 thereof governs if they are not inconsistent with the laws of  
62 West Virginia and are not contrary to recognized standards  
63 and good engineering practices. In any question, the  
64 decision of the State Fire Commission determines the  
65 relative priority of any such state law, county or municipal  
66 ordinance or regulation of any agency thereof and determines  
67 compliance with State Building Code by officials of the state,  
68 counties, municipalities and political subdivisions of the  
69 state.

70 (g) Enforcement of the provisions of the State Building  
71 Code is the responsibility of the respective local jurisdiction.  
72 Also, any county or municipality may enter into an  
73 agreement with any other county or municipality to provide  
74 inspection and enforcement services: *Provided*, That any  
75 county or municipality may adopt the State Building Code  
76 with or without adopting the BOCA National Property  
77 Maintenance Code.

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

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

85 (j) The provisions of the State Building Code relating to  
86 the construction, repair, alteration, restoration and movement  
87 of structures are not mandatory for existing buildings and  
88 structures identified and classified by the State Register of  
89 Historic Places under the provisions of section eight, article  
90 one of this chapter or the National Register of Historic  
91 Places, pursuant to 16 U. S. C. §470a. Prior to renovations  
92 regarding the application of the State Building Code, in  
93 relation to historical preservation of structures identified as  
94 such, the authority having jurisdiction shall consult with the  
95 Division of Culture and History, State Historic Preservation

96 Office. The final decision is vested in the State Fire  
97 Commission. Additions constructed on a historic building  
98 are not excluded from complying with the State Building  
99 Code.

---

(NOTE: The purpose of this bill is to provide for criminal background checks for home inspector applicants.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)

---

GOVERNMENT ORGANIZATION  
COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill No. 652**—A BILL to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating to criminal background checks for home inspector license applicants; and providing rule-making authority to the State Fire Commission to require criminal background checks for home inspector license applicants.