

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]

1 A BILL to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating
2 to State Building Code; authorizing State Fire Commission to promulgate emergency
3 rules; making State Building Code applicable in all counties and every municipality on date
4 certain; clarifying that building code is applicable prospectively in counties and
5 municipalities that did not previously adopt it; and requiring builder to follow provisions of
6 State Building Code in construction or renovation of a structure even if county or
7 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.

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

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

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

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

43 ordinance from enforcement. Any such code that may be or is adopted by any county or
44 municipality shall be and is unenforceable as to agricultural property.

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

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

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

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