WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

Com. Sub. for

HOUSE BILL No. 4385

(By Mr. Speaker, Mr. Chamber, Delegate Lugar
At request of the Executive)

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Passed March 11, 1988

In Effect July 1, 1988
AN ACT to amend and reenact section three-n, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section thirteen, article twelve, chapter eight of said code; and to amend article three, chapter twenty-nine of said code by adding thereto a new section, designated section five-b, relating to the state fire commission; promulgation of rules and regulations to be known as the state building code; permitting counties and municipalities to adopt the state building code; and voiding existing county and municipal building codes.

Be it enacted by the Legislature of West Virginia:

That section three-n, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section thirteen, article twelve, chapter eight of said code be amended and reenacted; and that article three, chapter twenty-nine of said code be amended by adding thereto a new section, designated section five-b, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS
AND OFFICERS.
ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3n. Authority of certain counties as to building and housing codes; state building code.

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt building and housing codes establishing and regulating minimum building and housing standards for the purpose of improving the health, safety and well-being of its citizens. Such codes may be adopted either for the entire county, or for any portion or portions of such county which may constitute an effective area or areas for such purposes, without the necessity of adopting such codes for any other portion of such county. Notwithstanding any other provision of this subsection to the contrary, no such code shall apply to or affect any territory within the boundaries of any municipal corporation which has adopted and in effect a housing and building code, unless and until such municipal corporation so provides by ordinance, or to structures on parcels of land used primarily for agricultural purposes.

(b) Notwithstanding the provisions of subsection (a), all existing county building codes are void one year after the promulgation of a state building code by the state fire commission as provided in chapter twenty-nine, article three, section five-b of this code.

Upon the voidance of the county’s existing building code, if the county commission votes to adopt a building code, it must be the state building code promulgated pursuant to chapter twenty-nine, article three, section five-b of this code.

(c) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt such state building code upon promulgation by the state fire commission. However, such state building code shall not apply to or affect any territory within the boundaries of any municipal corporation which has not adopted the
CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-13. Building regulation; general and special codes; state building code.

(a) The governing body of every municipality shall have plenary power and authority by ordinance or a code of ordinances to:

(1) Regulate the erection, construction, repair or alteration of structures of every kind within the corporate limits of the municipality, prohibit, within specified territorial limits, the erection, construction, repair or alteration of structures of wood or other combustible material, and regulate excavations upon private property;

(2) Regulate electric wiring by prescribing minimum specifications to be followed in the installation, alteration or repair thereof; and

(3) Regulate plumbing by prescribing the minimum specifications to be followed in the installation, alteration or repair of plumbing, including equipment, water and sewer pipe, traps, drains, cesspools and septic tanks.

(b) Notwithstanding the provisions of subsection (a), all existing municipal building codes are void one year after the promulgation of a state building code by the state fire commission as provided in chapter twenty-nine, article three, section five-b of this code.

Upon the voidance of the municipality's existing building code, if the municipality votes to adopt a building code, it must be the state building code promulgated pursuant to chapter twenty-nine, article three, section five-b of this code.

(c) The governing body of every municipality shall have plenary power and authority by ordinance or a
code of ordinances to adopt such state building code promulgated by the state fire commission.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5b. Promulgation of rules, regulations, and state-wide building code.

(a) The state fire commission shall promulgate and repeal rules and regulations to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state pursuant to the provisions of chapter twenty-nine-a of this code through the adoption of a state building code. Such rules, regulations, amendments, or repeals thereof shall be in accordance with standard safe practices so embodied in widely recognized standards of good practice for building construction and all aspects related thereto and shall have force and effect in those counties and municipalities adopting the state building code.

(b) Pursuant to the provisions of chapter twenty-nine-a of this code, on the first day of July, 1988, the state fire commission shall commence promulgation of comprehensive rules and regulations regarding building construction, renovation, and all other aspects as related to the construction and mechanical operations of a structure. Upon the completion of the promulgation of the rules and regulations, such rules and regulations shall be known as the “State Building Code”.

(c) For the purpose of this section the term “building code” is intended to include all aspects of safe building construction and mechanical operations and all safety aspects related thereto: Provided, That the state fire marshal shall provide compliance alternatives for historic structures and sites as provided for in section five, article one of this chapter, which compliance alternatives shall take into account the historic integrity of said historic structures and sites. Whenever any other state law, county or municipal ordinance or regulation of any agency thereof is more stringent or imposes a
higher standard than is required by the state fire code, the provisions of such state law, county or municipal ordinance or regulation of any agency thereof shall govern, provided they are not inconsistent with the laws of West Virginia and are not contrary to recognized standards and good engineering practices. In any question, the decision of the state fire commission determines the relative priority of any such state law, county or municipal ordinance or regulation of any agency thereof and determines compliance with state fire regulations by officials of the state, counties, municipalities and political subdivisions of the state. A copy of the state fire code and any amendments thereto, upon promulgation by the state fire commission, shall be filed with the county clerk and shall be made available for public information in each county courthouse in the state.

(d) Enforcement of the provisions of the state building code is the responsibility of the respective local jurisdiction. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services.

(e) After the state fire commission has promulgated rules and regulations as provided herein, each county or municipality intending to adopt the state building code shall notify the state fire commission of its intent.

The state fire commission may conduct public meetings in each county or municipality adopting the state building code to explain the provisions of such rules and regulations.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.


Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the 28th day of March, 1988.

Governor