

4385

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

— ● —

ENROLLED

Com. Sub. for

HOUSE BILL No. 4385

(By ~~Mr.~~ *Mr. Speaker, Mr. Chambers,*)
Delegate Swan
(By request of the Executive)

— ● —

Passed *March 11* 1988

In Effect *July 1, 1988* ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4385

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)
[By request of the Executive]

[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.

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

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

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

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

38 state building code.

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.

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

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

11 (2) Regulate electric wiring by prescribing minimum
12 specifications to be followed in the installation, altera-
13 tion or repair thereof; and

14 (3) Regulate plumbing by prescribing the minimum
15 specifications to be followed in the installation, altera-
16 tion or repair of plumbing, including equipment, water
17 and sewer pipe, traps, drains, cesspools and septic tanks.

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

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

28 (c) The governing body of every municipality shall
29 have plenary power and authority by ordinance or a

30 code of ordinances to adopt such state building code
31 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.**

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

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

22 (c) For the purpose of this section the term "building
23 code" is intended to include all aspects of safe building
24 construction and mechanical operations and all safety
25 aspects related thereto: *Provided*, That the state fire
26 marshal shall provide compliance alternatives for
27 historic structures and sites as provided for in section
28 five, article one of this chapter, which compliance
29 alternatives shall take into account the historic integrity
30 of said historic structures and sites. Whenever any other
31 state law, county or municipal ordinance or regulation
32 of any agency thereof is more stringent or imposes a

33 higher standard than is required by the state fire code,
34 the provisions of such state law, county or municipal
35 ordinance or regulation of any agency thereof shall
36 govern, provided they are not inconsistent with the laws
37 of West Virginia and are not contrary to recognized
38 standards and good engineering practices. In any
39 question, the decision of the state fire commission
40 determines the relative priority of any such state law,
41 county or municipal ordinance or regulation of any
42 agency thereof and determines compliance with state
43 fire regulations by officials of the state, counties,
44 municipalities and political subdivisions of the state. A
45 copy of the state fire code and any amendments thereto,
46 upon promulgation by the state fire commission, shall
47 be filed with the county clerk and shall be made
48 available for public information in each county court-
49 house in the state.

50 (d) Enforcement of the provisions of the state building
51 code is the responsibility of the respective local jurisdic-
52 tion. Also, any county or municipality may enter into an
53 agreement with any other county or municipality to
54 provide inspection and enforcement services.

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

59 The state fire commission may conduct public meet-
60 ings in each county or municipality adopting the state
61 building code to explain the provisions of such rules and
62 regulations.

[Handwritten signatures and stamps, including the name "James H. ..."]

Enr. Com. Sub. for H. B. 4385] 6

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
.....
Chairman Senate Committee

Thomas V. Kelly
.....
Chairman House Committee

Originating in the House.

Takes effect July 1, 1988.

Todd C. Heils
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Don Tomlin
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

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

Arch A. Moore, Jr.
.....
Governor

PRESENTED TO THE

GOVERNOR,

Date 3/22/88

Time 11:21 a.m.

RECEIVED

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OFFICE OF THE ATTORNEY
GENERAL
SECRETARY OF STATE