WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2976

(By Mr. Speaker (Mr. Thompson), and Delegate Armstead)
[By Request of the Executive]

Passed April 11, 2009
In Effect from Passage
AN ACT to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating to the State Building Code; and requiring the State Fire Commission to promulgate rules pertaining to the State Building Code that are in accordance with certain national and international building codes and standards.

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.
(a) The State Fire Commission shall propose rules for
legislative approval in accordance with the provisions of
article three, chapter twenty-nine-a of this code to safeguard
life and property and to ensure the quality of construction of
all structures erected or renovated throughout this state
through the adoption of a state building code. The rules 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 have force
and effect in those counties and municipalities adopting the
state building code: Provided, That each county or
municipality may adopt the code to the extent that it is only
prospective and not retroactive in its application.

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

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

Conservation Code for residential buildings or other building
energy code or codes for residential buildings that meets or
exceeds equivalent energy savings; and

(2) The ANSI/ASHRAE/IESNA Standard 90.1-2007
building energy code for commercial buildings or other
building energy code or codes for commercial buildings that
meets or exceeds equivalent energy savings.
(d) The State Fire Commission has authority to propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a, establishing state standards and fee schedules for the licensing, registration, certification, regulation and continuing education of persons which will conduct inspections relating to the State Building Code, which include, but are not limited to, building code officials, inspectors, plans examiners and home inspectors.

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

(f) 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. 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 Building Code, the provisions of the state law, county or municipal ordinance or regulation of any agency thereof governs if 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 Building Code by officials of the state, counties, municipalities and political subdivisions of the state.

(g) 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: *Provided, That any county or municipality may adopt the State Building Code with or without adopting the BOCA National Property Maintenance Code.*

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

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

(j) The provisions of the State Building Code relating to the construction, repair, alteration, restoration and movement of structures are not mandatory for existing buildings and structures identified and classified by the State Register of Historic Places under the provisions of section eight, article one of this chapter or the National Register of Historic Places, pursuant to 16 U.S.C. §470a. Prior to renovations regarding the application of the State Building Code, in relation to historical preservation of structures identified as such, the authority having jurisdiction shall consult with the Division of Culture and History, State Historic Preservation Office. The final decision is vested in the State Fire Commission. Additions constructed on a historic building are not excluded from complying with the State Building Code.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the __th day of ______, 2009.

Governor