

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 555

An Act to amend and reenact §§ 36-99, 36-99.01, 36-103, 36-119.1, 36-137, and 36-139 of the Code of Virginia, relating to the Uniform Statewide Building Code; rehabilitation of existing buildings; fire prevention.

[H 1211]

Approved April 5, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-99, 36-99.01, 36-103, 36-119.1, 36-137, and 36-139 of the Code of Virginia are amended and reenacted as follows:

§ 36-99. Provisions of Code.

A. The Building Code shall prescribe building regulations to be complied with in the construction and maintenance of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ~~insure~~ ensure that such regulations are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations. The provisions thereof shall be such as to protect the health, safety and welfare of the residents of ~~this~~ the Commonwealth, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation and barrier-free provisions for the physically handicapped and aged. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the ~~Southern Building Code Congress~~, the Building Officials Conference of America ~~International Code Council~~ and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the Board, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

§ 36-99.01. Provisions related to rehabilitation of existing buildings.

A. The General Assembly hereby declares that (i) there is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the Commonwealth; (ii) there are large numbers of older residential buildings in the Commonwealth, both occupied and vacant, which are in urgent need of rehabilitation and which must be rehabilitated if the State's citizens are to be housed in decent, sound, and sanitary conditions; and (iii) the application of those building code requirements currently in force to housing rehabilitation has sometimes led to the imposition of costly and time-consuming requirements ~~which~~ that result in a significant reduction in the amount of rehabilitation activity taking place.

B. *The General Assembly further declares that (i) there is an urgent need to improve the existing condition of many of the Commonwealth's stock of commercial properties, particularly in older cities; (ii) there are large numbers of older commercial buildings in the Commonwealth, both occupied and vacant, that are in urgent need of rehabilitation and that must be rehabilitated if the citizens of the Commonwealth are to be provided with decent, sound and sanitary work spaces; and (iii) the application of the existing building code to such rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.*

C. The Board is hereby directed and empowered to make such changes as are necessary to fulfill the intent of the General Assembly as expressed in ~~subsection~~ subsections A and B, including, but not limited to amendments to the Building Code and adequate training of building officials ~~and~~ Code, enforcement personnel, *contractors*, and design professionals throughout the Commonwealth.

§ 36-103. Buildings, etc., existing or projected before effective date of Code.

Any building or structure, for which a building permit has been issued or on which construction has commenced, or for which working drawings have been prepared in the year prior to the effective date of the Building Code, shall remain subject to the building regulations in effect at the time of such issuance

or commencement of construction. However, the Board may adopt and promulgate as part of the Building Code, ~~minimum building regulations for existing buildings to ensure the protection of public health, safety and welfare that facilitate the maintenance, rehabilitation, development and reuse of existing buildings at the least possible cost to ensure the protection of the public health, safety and welfare.~~ Subsequent reconstruction, renovation, repair or demolition of such buildings or structures shall be subject to the pertinent *maintenance and rehabilitation* provisions of the Building Code. The provisions of this section shall be applicable to equipment. However, building owners may elect to install partial or full fire alarms or other safety equipment that was not required by the Building Code in effect at the time a building was constructed without meeting current Building Code requirements, provided the installation does not create a hazardous condition. Permits for installation shall be obtained in accordance with the Uniform Statewide Building Code.

§ 36-119.1. Existing buildings.

This chapter shall not supersede provisions of the Fire Prevention Code promulgated by the Board under § 27-97, that prescribe standards to be complied with in existing buildings or structures, provided that such regulations shall not impose requirements that are more restrictive than those of the Uniform Statewide Building Code under which the buildings or structures were constructed. Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of such buildings and structures shall be subject to the *maintenance and rehabilitation provisions of the Building Code.*

§ 36-137. Powers and duties of Board.

The Board shall exercise the following powers and duties, and such others as may be provided by law:

1. Provide a means of citizen access to the Department.
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
3. Monitor the policies and activities of the Department and have the right of access to departmental information.
4. Advise the Governor and the Director on matters relating to housing and community development.
5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.
6. Issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire *prevention* regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title, *Chapter 9 (§ 27-94 et seq.) of Title 27*, and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.
7. Levy by regulation up to ~~one~~ *two* percent of building permit fees authorized pursuant to § 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of Housing and Community Development. Localities ~~which~~ *that* maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy. ~~Annual collections of such levy in excess of \$500,000 or any unobligated fund balance greater than one-third of that year's collections shall be credited against the levy to be collected in the next fiscal year.~~

The Board shall appoint a Building Code Academy Advisory Committee (the Committee) comprised of representatives of code enforcement personnel and construction industry professions affected by the provisions of the building and fire prevention regulations promulgated by the Board. Members of the Committee shall receive no compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in accordance with § 2.2-2813. The Committee shall advise the Board and the Director on policies, procedures, operations, and other matters pertinent to enhancing the delivery of training services provided by the Building Code Academy.

8. Establish general policies, procedures, and programs for the Virginia Housing Partnership Revolving Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

9. Determine the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant or loan programs of the Virginia Housing Partnership Revolving Fund and designate the proportion of such grants or loans to be made available in each category.

10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Fund.

11. Advise the Virginia Housing Development Authority on matters relating to the administration and management of loans and grants from the Virginia Housing Partnership Revolving Fund.

12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia

income tax return.

13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

14. Advise the Department in the development of the Comprehensive Housing Affordability Strategy to guide and coordinate the housing programs of the Department, the Virginia Housing Development Authority, and other state agencies and instrumentalities.

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Comprehensive Housing Affordability Strategy to guide the development and implementation of housing programs in the Commonwealth for the purpose of meeting the housing needs of the Commonwealth and, in particular, those of low-income and moderate-income persons and families.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Comprehensive Housing Affordability Strategy, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Administering the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).

14. Establishing and operating a Building Code Academy for the training of ~~personnel~~ *persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.*

15. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

16. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

17. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

18. Advising the Board on matters relating to policies and programs of the Virginia Housing Partnership Revolving Fund.

19. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Partnership Revolving Fund and to carry out the policies and procedures established by the Board.

20. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Partnership Revolving Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Virginia Housing Development Authority as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

21. Advising the Board on matters relating to policies for the low-income housing credit and

administering the approval of low-income housing credits as provided in § 36-55.63.

22. Establishing and administering program guidelines for a statewide homeless intervention program.

23. Administering fifteen percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

24. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.