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SENATE BILL NO. 984

Offered January 12, 2005

Prefiled January 11, 2005

A BILL to amend and reenact §§ 36-97 and 36-98.1 of the Code of Virginia relating to the Uniform Statewide Building Code and the State Fire Prevention Code; applicability to certain transportation assets owned by the Virginia Department of Transportation.

Patron—Watkins

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 36-97 and 36-98.1 of the Code of Virginia are amended and reenacted as follows:****§ 36-97. Definitions.**

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them, respectively:

"Board" means the Board of Housing and Community Development.

"Review Board" means the State Building Code Technical Review Board.

"Building Code" means the Uniform Statewide Building Code and building regulations adopted and promulgated pursuant thereto.

"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated by such Board from time to time.

"Building regulations" means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

"Municipality" means any city or town in this Commonwealth.

"Local governing body" means the governing body of any city, county or town in this Commonwealth.

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of the Building Code and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates or similar documents.

"State agency" means any state department, board, bureau, commission, or agency of this Commonwealth.

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. *"Building" shall not include roadway tunnels, bridges, and other limited access highways owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.*

"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;

2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;

3. Business or office uses relating to the farm operations;

4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;

5. Storage or use of supplies and materials used on the farm; or

6. Implementation of best management practices associated with farm operations.

"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings

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59 and structures.

60 "Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a
61 mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a
62 building or structure.

63 "Director" means the Director of the Department of Housing and Community Development.

64 "Structure" means an assembly of materials forming a construction for occupancy or use including
65 stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers,
66 water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools,
67 amusement devices, storage bins, and other structures of this general nature but excluding water wells.
68 The word "structure" shall be construed as though followed by the words "or part or parts thereof"
69 unless the context clearly requires a different meaning. *"Structure" shall not include roadway tunnels,*
70 *bridges, and other limited access highways owned by the Department of Transportation, which shall be*
71 *governed by construction and design standards approved by the Commonwealth Transportation Board.*

72 "Department" means the Department of Housing and Community Development.

73 § 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.

74 A. The Building Code shall be applicable to all state-owned buildings and structures, with the
75 exception that (i) §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use
76 of state-owned buildings by the physically handicapped.

77 Any state-owned building or structure for which preliminary plans were prepared or on which
78 construction commenced after the initial effective date of the Uniform Statewide Building Code, shall
79 remain subject to the provisions of the Uniform Statewide Building Code that were in effect at the time
80 such plans were completed or such construction commenced. Subsequent reconstruction, renovation or
81 demolition of such building or structure shall be subject to the pertinent provisions of the Building
82 Code.

83 Acting through the Division of Engineering and Buildings, the Department of General Services shall
84 function as the building official for state-owned buildings. The Department shall review and approve
85 plans and specifications, grant modifications, and establish such rules and regulations as may be
86 necessary to implement this section. It shall provide for the inspection of state-owned buildings and
87 enforcement of the Building Code and standards for access by the physically handicapped by delegating
88 inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate
89 state agencies having needed expertise, and to local building departments, all of which shall provide
90 such assistance within a reasonable time and in the manner requested. State agencies and institutions
91 occupying buildings shall pay to the local building department the same fees as would be paid by a
92 private citizen for the services rendered when such services are requested by the Department of General
93 Services. The Department of General Services may alter or overrule any decision of the local building
94 department after having first considered the local building department's report or other rationale given
95 for its decision. When altering or overruling any decision of a local building department, the Department
96 of General Services shall provide the local building department with a written summary of its reasons
97 for doing so.

98 B. *Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels, bridges, and other*
99 *limited access highways owned by the Department of Transportation shall be exempt from the Building*
100 *Code and the Statewide Fire Prevention Code Act (§ 27-94 et seq.). The Department of General Services*
101 *shall not have jurisdiction over such roadway tunnels, bridges, and other limited access highways;*
102 *provided, however, that the Department of General Services shall have jurisdiction over any occupied*
103 *buildings within any Department of Transportation rights-of-way that are subject to the Building Code.*

104 *Roadway tunnels, bridges, and limited access highways shall be designed, constructed, and operated*
105 *to comply with fire safety standards developed jointly by the Department of Transportation and the State*
106 *Fire Marshall and approved by the Commonwealth Transportation Board to ensure safety for users of*
107 *the facilities. Emergency response planning and activities related to the standards approved by the*
108 *Commonwealth Transportation Board shall be developed by the Department of Transportation and*
109 *coordinated with the appropriate local officials and emergency services providers.*