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HOUSE BILL NO. 2356

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact §§ 2.2-4006, 9.1-203, 27-61, 27-95, 27-97, 36-99.3, 36-114, 36-118, 36-135, 36-139, and 38.2-401 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 9.1-203.1, 9.1-203.2, 9.1-206, 9.1-207, and 9.1-208, and to repeal §§ 36-139.2 and 36-139.3 of the Code of Virginia, relating to the Office of the State Fire Marshal; powers and duties.

Patrons—Cosgrove, Cline, Landes, Poisson and Rust

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4006, 9.1-203, 27-61, 27-95, 27-97, 36-99.3, 36-114, 36-118, 36-135, 36-139, and 38.2-401 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 9.1-203.1, 9.1-203.2, 9.1-206, 9.1-207, and 9.1-208 as follows:

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.
2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

5. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

6. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

7. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.

8. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

9. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Virginia Stormwater Management Act (§ 10.1-603.1 et seq.) of Title 10.1, and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 2.2-4007, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection

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59 F of § 2.2-4007, and (iv) conducts at least one public hearing on the proposed general permit.

60 10. The development and issuance by the Board of Education of guidelines on constitutional rights
61 and restrictions relating to the recitation of the pledge of allegiance to the American flag in public
62 schools pursuant to § 22.1-202.

63 11. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23-38.77.

64 12. Regulations of the Marine Resources Commission.

65 13. Regulations adopted by the Board of Housing and Community Development pursuant to (i)
66 ~~Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et~~
67 ~~seq.), (iii) (ii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) (iii) § 36-98.3, provided~~
68 the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of
69 subsection B of § 2.2-4007, (b) publishes the proposed regulation and provides an opportunity for oral
70 and written comments as provided in subsection F of § 2.2-4007, and (c) conducts at least one public
71 hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations.
72 Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall
73 remain subject to the provisions of subsection K of § 2.2-4007 concerning public petitions, and
74 §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

75 14. Amendments to the list of drugs susceptible to counterfeiting adopted by the Board of Pharmacy
76 pursuant to subsection B of § 54.1-3307.

77 *15. Regulations adopted by the Board of Fire Services pursuant to the Statewide Fire Prevention*
78 *Code (§ 27-94 et seq.), provided the Board (i) provides a Notice of Intended Regulatory Action in*
79 *conformance with the provisions of subsection B of § 2.2-4007, (ii) publishes the proposed regulation*
80 *and provides an opportunity for oral and written comments as provided in subsection F of § 2.2-4007,*
81 *and (iii) conducts at least one public hearing as provided in § 2.2-4009 prior to the publishing of the*
82 *proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by*
83 *the Board shall remain subject to the provisions of subsection K of § 2.2-4007 concerning public*
84 *petitions and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.*

85 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it
86 will receive, consider and respond to petitions by any interested person at any time with respect to
87 reconsideration or revision. The effective date of regulations adopted under this subsection shall be in
88 accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall
89 become effective as provided in subsection B of § 2.2-4012.

90 C. A regulation for which an exemption is claimed under this section or § 2.2-4002, or 2.2-4011 and
91 that is placed before a board or commission for consideration shall be provided at least two days in
92 advance of the board or commission meeting to members of the public that request a copy of that
93 regulation. A copy of that regulation shall be made available to the public attending such meeting.

94 § 9.1-203. Powers and duties of Virginia Fire Services Board; limitation.

95 A. The Board shall have the responsibility for promoting the coordination of the efforts of fire
96 service organizations at the state and local levels. To these ends, it shall have the following powers and
97 duties to:

98 1. Establish a process, involving state and local agencies, public and private, for setting priorities for
99 implementing the Virginia Fire Prevention and Control Plan and coordinating the activities of state and
100 local agencies, public and private, in implementing the Plan;

101 2. Develop a five-year statewide plan for fire education and training;

102 3. Establish criteria for the disbursement of any grant funds received from the federal government
103 and any agencies thereof and any other source and to disburse such funds in accordance therewith;

104 4. Provide technical assistance and advice to local fire departments, other fire services organizations,
105 and local governments;

106 5. Develop and recommend personnel standards for fire services personnel;

107 6. Develop and implement a statewide plan for the collection, analysis and reporting of data relating
108 to fires in the Commonwealth, utilizing appropriate resources of other state agencies when deemed
109 proper by the Board;

110 7. Make recommendations to the Governor and General Assembly concerning legislation affecting
111 fire prevention and protection and fire services organizations in Virginia;

112 8. Evaluate all state programs or functions which have a bearing on fire prevention and protection
113 and to make to the appropriate government officials any recommendations deemed necessary to improve
114 the level of fire prevention and protection in the Commonwealth;

115 9. Provide training and information to localities relative to the Statewide Fire Prevention Code;

116 10. Study and develop alternative means of providing financial support for volunteer fire departments
117 and to make appropriate recommendations regarding the implementation of such alternatives;

118 11. Conduct training schools for fire service personnel in various areas of the Commonwealth; and

119 12. Render assistance to local fire departments and volunteer fire companies in training firefighters;
120 and

13. Promulgate the Statewide Fire Prevention Code (§ 27-94 et seq.) and regulations relating to the powers and duties of the State Fire Marshal.

B. Except for those policies established in § 38.2-401, compliance with the provisions of § 9.1-201 and this section and any policies or guidelines enacted pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any volunteer fire department or volunteer fire departments operating under the same corporate charters.

§ 9.1-203.1. Additional powers of the Board.

A. The Board shall have the power and duty to hear all appeals from decisions arising under application of the Code and to render its decision on any such appeal, which decision shall be final if no appeal is made therefrom. Proceedings of the Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except that an informal conference pursuant to § 2.2-4019 shall not be required.

B. The Board shall interpret the provisions of the Code and shall make such recommendations, which it deems appropriate, to the Board for modification, amendment, or repeal of any of such provisions. A record of all such recommendations and of the Board's actions thereon shall be kept by the Board. Such record shall be open to public inspection at all times during business hours.

§ 9.1-203.2. Notice and hearings on adoption of Code; amendments and repeals.

The adoption, amendment, or repeal of any Code provisions shall be exempt from the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, pursuant to subdivision A 15 of § 2.2-4006. Before the adoption, amendment, or repeal of any Code provisions, the Board shall hold at least one public hearing. In addition to the notice requirement contained therein, the Board shall notify in writing the building official or, where none, the local governing body of every city or county in the Commonwealth. At any such hearing all persons desiring to do so shall be afforded an opportunity to present their views.

§ 9.1-206. Appointment of State Fire Marshal; qualification; powers and duties; power to arrest, to procure and serve warrants and issue summonses; limitation on authority.

A. The Secretary of Public Safety shall appoint a State Fire Marshal and other personnel necessary to carry out the provisions of the Statewide Fire Prevention Code (§27-94 et seq.). The State Fire Marshal and other personnel appointed pursuant to this section shall be selected upon the basis of education or experience in administering laws and regulations designed to prevent and eliminate hazards to life and property.

B. The State Fire Marshal shall have the powers and duties prescribed by the Statewide Fire Prevention Code, § 27-61, the regulations of the Fire Services Board, and the Secretary of Public Safety. The State Fire Marshal and those persons duly authorized to enforce the Statewide Fire Prevention Code shall have the authority to arrest, to procure and serve warrants of arrests, and to issue summonses in the manner authorized by general law for violation of the Statewide Fire Prevention Code. The authority granted in this section shall not be construed to authorize the State Fire Marshal to wear or carry firearms. All personnel appointed pursuant to this section shall meet the training requirements set forth for local fire marshals in § 27-34.2.

§ 9.1-207. Inspection of certain state-owned, state-operated, or state-licensed facilities; enforcement of safety standards.

Notwithstanding any other provisions of this chapter, the State Fire Marshal, upon presenting appropriate credentials, shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency, (ii) assisted living facilities licensed or subject to licensure pursuant to Chapter 18 (§ 63.2-1800 et seq.) of Title 63.2 that are not inspected by the local fire marshal, (iii) student residence facilities owned or operated by a public institution of higher education, and (iv) public schools that are not inspected by the local fire marshal. In the event that any such facility or residence is found to be nonconforming to the Statewide Fire Prevention Code, the State Fire Marshal or local fire marshal may petition any court of competent jurisdiction for the issuance of an injunction.

9.1-208. Agreements between Department and other agencies.

The Department is hereby authorized to enter into agreements with federal agencies, other state agencies, and political subdivisions for services related to enforcement and administration of laws, rules, or regulations or ordinances of such agencies affecting fire safety in public buildings.

§ 27-61. When Department or fire chief may remedy inflammable or unsafe conditions.

The Department of ~~Housing and Community Development~~ Fire Programs, by its representative, or the chief or other head of the fire department of any county, city or town or district thereof, shall have the right, at all reasonable hours, for the purpose of examination, to enter into and upon any public school building or any other building or premises not at the time occupied and used as a dwelling house, within their respective jurisdictions, for examination as to combustible materials or inflammable or unsafe conditions in any such building or upon any such premises. Upon complaint of any person

182 having an interest in any building or premises or property adjacent thereto, in his jurisdiction, an officer
183 shall make an immediate investigation as to the presence of any combustible materials or the existence
184 of inflammable or unsafe conditions in such buildings or upon such premises. Whenever any officer
185 finds in any building or upon any premises combustible, inflammable or unsafe conditions, dangerous to
186 the safety of the building or premises, or other property, he shall order the same to be removed or
187 remedied, and the order shall, within a reasonable time to be fixed in the order, be complied with by the
188 owner or occupant of the building or premises.

189 Any owner or occupant aggrieved by such order may within five days after notice of such order,
190 appeal to the Department of ~~Housing and Community Development~~ *Fire Programs*, and the cause of his
191 complaint shall be at once investigated by the *Executive* Director of the Department of ~~Housing and~~
192 ~~Community Development~~ *Fire Programs*, and unless by its authority such order is revoked, the order
193 shall remain in force and the owner or occupant shall comply with the order.

194 Any owner or occupant of any building or premises failing to comply with any final order made or
195 given under the authority of this section, shall be deemed guilty of a misdemeanor, and punished by a
196 fine of not less than \$5 nor more than \$100 for each offense.

197 § 27-95. Definitions.

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

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

201 "Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by
202 the Board, and the amendments thereof as adopted and promulgated from time to time by such Board.

203 "Enforcement agency" means the agency or agencies of any local governing body or the State Fire
204 Marshal charged with the administration or enforcement of the Fire Prevention Code.

205 "Fire Prevention Code" or "Code" means the Statewide Fire Prevention Code.

206 "Fire prevention regulation" means any law, rule, resolution, regulation, ordinance or code, general or
207 special, or compilation thereof to safeguard life and property from the hazards of fire or explosion
208 arising from the improper maintenance of life safety and fire prevention and protection materials,
209 devices, systems and structures, and the unsafe storage, handling and use of substances, materials and
210 devices, including explosives and blasting agents, wherever located, heretofore or hereafter enacted or
211 adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus,
212 commissions or other agencies.

213 "Fire Services Board" or "Board" means the Virginia Fire Services Board as provided for in
214 § 9.1-202.

215 "Fireworks" means any firecracker, torpedo, skyrocket, or other substance or object, of whatever
216 form or construction, that contains any explosive or inflammable compound or substance, and is
217 intended, or commonly known as fireworks, and which explodes, rises into the air or travels laterally, or
218 fires projectiles into the air.

219 "Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by
220 any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to
221 be inspected or entered, and directed to a state or local official, commanding him to enter and to
222 conduct any inspection, examination, testing or collection of samples for testing required or authorized
223 by the Virginia Statewide Fire Prevention Code.

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

225 "Permissible fireworks" means any sparklers, fountains, Pharaoh's serpents, caps for pistols, or
226 pinwheels commonly known as whirligigs or spinning jennies.

227 "State Fire Marshal" means the State Fire Marshal as provided for by § ~~36-139.2~~ 9.1-206.

228 § 27-97. Adoption of Fire Prevention Code.

229 The Board of ~~Housing and Community Development~~ *Virginia Fire Services Board (Board)* is hereby
230 empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively
231 developed with the ~~Fire Services Board of Housing and Community Development~~ pursuant to procedures
232 agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to be complied with
233 for the protection of life and property from the hazards of fire or explosion and for the handling,
234 storage, sale and use of fireworks, explosives or blasting agents, and shall provide for the administration
235 and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of fireworks
236 or explosives, as defined in the Code, to register and report information concerning their manufacturing
237 facilities and methods of operation within the Commonwealth in accordance with regulations adopted by
238 the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board shall
239 also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of
240 fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual
241 permits for such activities to any state regulated public utility. Such permits shall not apply to the
242 storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1.

243 The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting,

manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding any fireworks except for those persons, firms, or corporations that manufacture, store, market and distribute fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local governments or other political subdivisions. Local governments are hereby empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code.

In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the Southern Building Code Congress, the Building Officials and Code Administrators International, Inc., International Code Council, the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code.

The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any building which is (i) more than seventy-five feet or more than six stories high and (ii) used, in whole or in part, as a dormitory to house students by any public or private institution of higher education shall be required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual fire drills in all buildings having floors used for human occupancy located more than seventy-five feet above the lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel or the owner of the building in accordance with a plan approved by the appropriate fire official and shall not affect other current occupants. The Board may modify, amend or repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in cooperation with the Fire Services Board of Housing and Community Development pursuant to procedures agreed to by the two Boards.

§ 36-99.3. Smoke detectors and automatic sprinkler systems in colleges and universities.

A. College or university buildings containing dormitories for sleeping purposes shall be provided with battery or AC powered smoke detector devices installed therein in accordance with the Uniform Statewide Building Code. All public or private college and university dormitories shall have installed and use due diligence in maintaining in good working order such detectors regardless of when the building was constructed.

B. The Board of Housing and Community Development shall promulgate regulations pursuant to ~~item (ii) clause (ii)~~ of subdivision ~~C5 A 13~~ of ~~section~~ § 2.2-4006 establishing standards for automatic sprinkler systems throughout all public or private college or university buildings which are (i) more than seventy-five feet or more than six stories high and (ii) used, in whole or in part, as dormitories to house students. Such buildings shall be equipped with automatic sprinkler systems by September 1, 1999, regardless of when such buildings were constructed.

C. The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this section from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Department of General Services.

D. The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled twenty-four hours a day by military guards.

§ 36-114. Board to hear appeals.

The Review Board shall have the power and duty to hear all appeals from decisions arising under application of the Building Code, the amusement device regulations, ~~the Fire Prevention Code adopted under the Statewide Fire Prevention Code Act (§ 27-94 et seq.)~~, the Industrialized Building Safety Law (§ 36-70 et seq.), the Virginia Manufactured Housing Construction and Safety Standards Law (§ 36-85.2 et seq.), and the Virginia Certification Standards adopted by the Board of Housing and Community Development, and to render its decision on any such appeal, which decision shall be final if no appeal is made therefrom. Proceedings of the Review Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except that an informal conference pursuant to § 2.2-4019 shall not be required.

§ 36-118. Interpretation of Code; recommendation of modifications.

The Review Board shall interpret the provisions of the Building Code, ~~and the Fire Prevention Code~~, and shall make such recommendations, which it deems appropriate, to the Board for modification,

305 amendment or repeal of any of such provisions. A record of all such recommendations, and of the
306 Board's actions thereon, shall be kept in the office of the Review Board. Such record shall be open to
307 public inspection at all times during business hours.

308 § 36-135. Board of Housing and Community Development; members; terms; chairman; appointment
309 of ad hoc committee.

310 A. The Board of Housing and Community Development within the Department of Housing and
311 Community Development shall consist of 14/15 members as follows: 11 members, one representing each
312 congressional district in the Commonwealth, who are appointed by the Governor, subject to confirmation
313 by the General Assembly, the Executive Director of the Virginia Housing Development Authority *and*
314 *the State Fire Marshal as an* ex officio voting ~~member~~ members; a member of the Virginia Fire Services
315 Board, to be appointed by the chairman of that Board; and the Director of Regulatory Compliance of the
316 Virginia Building Officials Association, who shall be a member of the Board's Codes and Standards
317 Committee, but shall not serve as either the chairman of such committee or of the Board. Members shall
318 serve for four-year terms and no member shall serve for more than two full successive terms, except for
319 the Director of Regulatory Compliance of the Virginia Building Officials Association, who shall serve
320 no more than one four-year term. A chairman of the Board shall be elected annually by the Board.

321 B. Whenever the Board of Housing and Community Development proposes a change to statewide
322 building and fire regulations, the Board may convene an ad hoc committee, including but not limited to
323 representatives of those industry groups directly affected by such change, to advise the Board on such
324 matters.

325 § 36-139. Powers and duties of Director.

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

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

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

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

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

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

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

344 7. Developing a Consolidated Plan to guide the development and implementation of housing
345 programs and community development in the Commonwealth for the purpose of meeting the housing
346 and community development needs of the Commonwealth and, in particular, those of low-income and
347 moderate-income persons, families and communities.

348 8. Determining present and future housing requirements of the Commonwealth on an annual basis
349 and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to
350 ensure the availability of housing where and when needed.

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

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

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

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

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

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

365 15. 14. Administering, in conjunction with the federal government, and promulgating any necessary
366 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

16-15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

17-16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

18-17. Advising the Board on matters relating to policies and programs of the Virginia Housing Partnership Revolving Fund.

19-18. 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.

20-19. 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.

21-20. 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.

22-21. Establishing and administering program guidelines for a statewide homeless intervention program.

23-22. Administering 15 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.

24-23. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

25-24. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

26-25. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

27-26. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 38.2-401. Fire Programs Fund.

A. 1. There is hereby established in the state treasury a special nonreverting fund to be known as the Fire Programs Fund, hereinafter referred to as "the Fund." The Fund shall be administered by the Department of Fire Programs under policies and definitions established by the Virginia Fire Services Board. All moneys collected pursuant to the assessment made by the Commission pursuant to subdivision 2 of this subsection shall be paid into the state treasury and credited to the Fund. The Fund shall also consist of any moneys appropriated thereto by the General Assembly and any grants or other moneys received by the Virginia Fire Services Board or Department of Fire Programs for the purposes set forth in this section. Any moneys deposited to or remaining in such Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Interest earned on all moneys in the Fund and interest earned on moneys held by the Commission pursuant to subdivision 2 of this subsection prior to the deposit of such moneys into the Fund, including interest earned on such moneys during any period when the Commission is reconciling payments from insurers, shall remain in or be deposited into the Fund, as the case may be, and be credited to it. Such interest shall be set aside for fire service purposes in accordance with policies developed by the Virginia Fire Services Board. Notwithstanding any other provision of law to the contrary, policies established by the Virginia Fire Services Board for the administration of the Fund, and any grants provided from the Fund, that are not inconsistent with the purposes set out in this section shall be binding upon any locality that accepts such funds or related grants. The Commission shall be reimbursed from the Fund for all expenses necessary for the administration of this section. The balance of moneys in the Fund shall be allocated periodically as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Department of Fire Programs (Director) or his designee.

2. The Commission shall annually assess against all licensed insurance companies doing business in the Commonwealth by writing any type of insurance as defined in §§ 38.2-110, 38.2-111, 38.2-126, 38.2-130 and 38.2-131 and those combination policies as defined in § 38.2-1921 that contain insurance

428 as defined in §§ 38.2-110, 38.2-111 and 38.2-126, an assessment in the amount of one percent of the
429 total direct gross premium income for such insurance. Such assessment shall be apportioned, assessed
430 and paid as prescribed by § 38.2-403. In any year in which a company has no direct gross premium
431 income or in which its direct gross premium income is insufficient to produce at the rate of assessment
432 prescribed by law an amount equal to or in excess of \$100, there shall be so apportioned and assessed
433 against such company a contribution of \$100.

434 B. After reserving funds for the Fire Services Grant Program and Dry Fire Hydrant Grant Program
435 pursuant to subsection D, 75 percent of the remaining moneys available for allocation from the Fund
436 shall be allocated to the several counties, cities and towns of the Commonwealth providing fire service
437 operations to be used for the improvement of volunteer and career fire services in each of the receiving
438 localities. Funds allocated to the counties, cities and towns pursuant to this subsection shall not be used
439 directly or indirectly to supplant or replace any other funds appropriated by the counties, cities and
440 towns for fire service operations. Such funds shall be used solely for the purposes of training volunteer
441 or career firefighting personnel in each of the receiving localities; funding fire prevention and public
442 safety education programs; constructing, improving and expanding regional or local fire service training
443 facilities; purchasing emergency medical care and equipment for fire personnel; payment of personnel
444 costs related to fire and medical training for fire personnel; or for purchasing personal protective
445 equipment, vehicles, equipment and supplies for use in the receiving locality specifically for fire service
446 purposes. Notwithstanding any other provision of the Code, when localities use such funds to construct,
447 improve or expand fire service training facilities, fire-related training provided at such training facilities
448 shall be by instructors certified or approved according to policies developed by the Virginia Fire
449 Services Board. Distribution of this 75 percent of the Fund shall be made on the basis of population as
450 provided for in §§ 4.1-116 and 4.1-117; however, no county or city eligible for such funds shall receive
451 less than \$10,000, nor eligible town less than \$4,000. The Virginia Fire Services Board shall be
452 authorized to exceed allocations of \$10,000 for eligible counties and cities and \$4,000 for eligible towns,
453 respectively. Allocations to counties, cities, and towns receiving such allocations shall be fair and
454 equitable as set forth in Board policy. Any increases or decreases in such allocations shall be uniform
455 for all localities. In order to remain eligible for such funds, each receiving locality shall report annually
456 to the Department on the use of the funds allocated to it for the previous year and shall provide a
457 completed Fire Programs Fund Disbursement Agreement form. Each receiving locality shall be
458 responsible for certifying the proper use of the funds. If, at the end of any annual reporting period, a
459 satisfactory report and a completed agreement form have not been submitted by a receiving locality, any
460 funds due to that locality for the next year shall not be retained. Such funds shall be added to the 75
461 percent of the Fund allocated to the counties, cities, and towns of the Commonwealth for improvement
462 of fire services in localities.

463 C. The remainder of the moneys available for allocation from the Fund shall be used for (i) the
464 purposes of carrying out the powers and duties assigned to the Department of Fire Programs under
465 Chapter 2 (§ 9.1-200) of Title 9.1, which shall include providing funded training and administrative
466 support services for nonfunded training to localities and (ii) the payment of the compensation and costs
467 of expenses of the members of the Fire Services Board in performing their official duties; *however, the*
468 *Fund shall not be used for salaries or operating expenses associated with the Office of the State Fire*
469 *Marshal or other functions of state government.*

470 D. The Fire Services Grant Program is hereby established and will be used as grants to provide
471 regional fire services training facilities, to finance the Virginia Fire Incident Reporting System and to
472 build or repair burn buildings as determined by the Virginia Fire Services Board. Beginning January 1,
473 1996, \$1 million from the assessments made pursuant to this section shall be distributed each year for
474 the Fire Services Grant Program to be used as herein provided, and \$100,000 shall be distributed
475 annually for continuing the statewide Dry Fire Hydrant Grant Program. Moneys allocated pursuant to
476 this subsection shall be used for the purposes stated in this subsection, and for no other purpose. All
477 grants provided from these programs shall be administered by the Department according to the policies
478 established by the Virginia Fire Services Board.

479 E. Moneys in the Fund shall not be diverted or expended for any purpose not authorized by this
480 section.

481 F. The Director shall establish written standards for determining the extent to which clients outside
482 the Commonwealth shall be financially responsible for the cost of fire and emergency services training
483 provided by the Department of Fire Programs. Revenues generated by such training shall be retained in
484 the Fire Programs Fund and may be used solely for providing additional funded direct training to
485 members of Virginia's fire and emergency services.

486 **2. That §§ 36-139.2 and 36-139.3 of the Code of Virginia are repealed.**

487 **3. That all rules and regulations adopted by the Board of Housing and Community Development**
488 **pertaining to the Statewide Fire Prevention Code that are in effect as of the effective date of this**
489 **act shall remain in full force and effect until altered, amended, or rescinded by the Virginia Fire**

490 Services Board.