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HOUSE BILL NO. 1094

Offered January 9, 2014

A BILL to amend and reenact § 36-98.1 of the Code of Virginia, relating to Uniform Statewide Building Code; enforcement on Indian tribal lands.

Patron—Hodges

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 36-98.1 of the Code of Virginia is amended and reenacted as follows:

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

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

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

Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for any state-owned buildings or structures and for all buildings and structures built on state-owned property. *The Department shall not be required to function as the building official for buildings and structures located on an Indian reservation, provided the Indian tribe in possession of the property has retained one or more qualified firms or individuals to perform the functions, and the names of such qualified firms or individuals have been submitted to the Department.*

The Department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It may provide for the (i) inspection of state-owned buildings or structures and for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code and standards for access by the physically handicapped by delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the Department of General Services. The Department of General Services may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the Department of General Services shall provide the local building department with a written summary of its reasons for doing so.

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

Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Department of Transportation in consultation with the State Fire Marshal. Emergency response planning and activities related to the standards shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency services providers. On an annual basis the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

C. Except as provided in subsection D of § 23-38.109, and notwithstanding the provisions of subsection A, at the request of a public institution of higher education, the Department, as further set forth in this subsection, shall authorize that institution of higher education to contract with a building

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59 official of the locality in which the construction is taking place to perform any inspection and
60 certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97
61 et seq.). The Department shall publish administrative procedures that shall be followed in contracting
62 with a building official of the locality. The authority granted to a public institution of higher education
63 under this subsection to contract with a building official of the locality shall be subject to the institution
64 meeting the conditions prescribed in subsection B of § 23-38.88.

65 D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a
66 public service company, a certificated provider of telecommunications services, or a franchised cable
67 operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation
68 Board.