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SENATE BILL NO. 1305

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 25, 2023)

(Patron Prior to Substitute—Senator Hanger)

A *BILL to amend and reenact § 36-99 of the Code of Virginia, relating to farm buildings and structures; building code exemptions.*

Be it enacted by the General Assembly of Virginia:

1. That § 36-99 of the Code of Virginia is amended and reenacted as follows:

§ 36-99. Provisions of Code; modifications.

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; 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 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. *However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:*

1. *Portable fire extinguishers for the purpose of fire suppression;*

2. *A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and*

3. *A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.*

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 local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the

60 Board, upon finding that (i) the current technical or administrative Code provisions allow use of or
61 result in defective or deficient building materials, methods, or designs, and (ii) immediate action is
62 necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue
63 amended regulations establishing interim performance standards and Code provisions for the installation,
64 application, and use of such building materials, methods or designs in the Commonwealth. Such
65 amended regulations shall become effective upon their publication in the Virginia Register of
66 Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective
67 upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24
68 months or until adopted, modified, or repealed by the Board.

69 **2. That the Agritourism Event Structure Technical Advisory Committee (the Committee),**
70 **established pursuant to § 36-98.4 of the Code of Virginia, shall meet no less than four times**
71 **between the 2023 and 2024 Regular Sessions of the General Assembly to continue to review and**
72 **consider the following issues of concern to ensure fire safety and the welfare of the general public**
73 **at agritourism facilities and to address parity issues between farm and non-farm hospitality**
74 **establishments: (i) minimum safety standards for any building or structure utilizing the**
75 **agritourism exemption, including the need to provide fire suppression, proper ingress and egress**
76 **from buildings in case of emergency, and requirements relating to access roads; (ii) issues relating**
77 **to standards that appropriately address facilities of all sizes and types; and (iii) the potential need**
78 **for an administrative organization for inspection, enforcement, and evaluation of any new laws or**
79 **regulations. Such review shall include publishing or posting proposed recommendations and**
80 **soliciting input from relevant stakeholders and local governments in order to have a clear**
81 **understanding of critical public safety concerns. The Committee shall report its findings and**
82 **recommendations for action to the Board of Housing and Community Development by November**
83 **1, 2023.**