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HOUSE BILL NO. 289

Offered January 19, 1994

A *BILL to amend and reenact §§ 36-97, 36-99.6, and 36-105 and to repeal § 36-99.6:1 of the Code of Virginia, relating to the Uniform Statewide Building Code.*

Patrons—Harris, Councill and Grayson; Senators: Calhoun and Woods

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-97, 36-99.6, and 36-105 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 ~~building codes~~ *the Building Code* and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates or similar documents ~~prescribed or required by state or local building regulations.~~

"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; however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the Uniform Statewide Building Code, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable. 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.

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

"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings *and structures.*

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

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

"Structure" means an assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, *storage tanks (underground and aboveground)*, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. Farm structures not used for residential purposes shall be exempt from the provisions of the Uniform Statewide Building Code, but such structures lying within a flood plain or in a mudslide-prone area shall

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60 be subject to flood proofing regulations or mudslide regulations, as applicable. The word "structure"
61 shall be construed as though followed by the words "or part or parts thereof" unless the context clearly
62 requires a different meaning.

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

64 § 36-99.6. Underground storage tank inspections.

65 A. The Board of Housing and Community Development is ~~authorized to incorporate~~ *shall incorporate*,
66 as part of the Building Code, regulations ~~developed~~ *adopted and promulgated* by the State Water Control
67 Board governing the installation, *repair, upgrade* and closure of underground *and aboveground* storage
68 tanks.

69 B. The Board is also authorized to incorporate, as part of the Building Code, regulations developed
70 by the State Water Control Board pursuant to § 62.1-44.34:15.1 governing aboveground storage tanks.

71 C. B. Inspections undertaken pursuant to such *Building Code* regulations shall be done by employees
72 of the local building department or another individual authorized by the local building department.

73 § 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings.

74 Enforcement of the Building Code shall be the responsibility of the local building department. There
75 shall be established within each local building department a local board of Building Code appeals whose
76 composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local
77 building department concerning application of the Building Code or refusal to grant a modification to
78 the provisions of the *Building Code* covering the manner of construction or materials to be used in the
79 erection, alteration or repair of a building or structure shall first lie to the local board of Building Code
80 appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final
81 determination by the local board of Building Code appeals. Whenever a county or a municipality does
82 not have such a building department or board of Building Code appeals, the local governing body shall
83 enter into an agreement with the local governing body of another county or municipality or with some
84 other agency, or a state agency approved by the Department for such enforcement and appeals resulting
85 therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to
86 administer and enforce the Building Code; however, where the town does not elect to administer and
87 enforce the Building Code, the county in which the town is situated shall administer and enforce the
88 Building Code for the town. In the event such town is situated in two or more counties, those counties
89 shall administer and enforce the Building Code for that portion of the town which is situated within
90 their respective boundaries. Fees may be levied by the local governing body in order to defray the cost
91 of such enforcement and appeals.

92 Any building *or structure* may be inspected at any time before completion, and shall not be deemed
93 in compliance until approved by the inspecting authority. Where the construction cost is less than
94 \$1,000, however, the ~~building~~ inspection may, in the discretion of the inspecting authority, be waived. A
95 local governing body may provide that buildings and structures, ~~permanent or temporary, which are used~~
96 ~~to store hazardous materials, or occupied or to be used by twenty or more persons who are employed,~~
97 ~~lodged, housed, assembled, served, entertained or instructed therein, or the common areas of residential~~
98 ~~structures containing four or more units, including buildings owned by the Commonwealth or by any of~~
99 ~~its political subdivisions and the equipment therein, be inspected periodically after completion to insure~~
100 ~~that the Building Code regulations are properly maintained.~~ The building official shall coordinate all
101 reports ~~withof~~ inspections for compliance ~~ofwith~~ the Building Code, ~~fromwith inspections of fire and~~
102 health officials delegated such authority, prior to issuance of an occupancy permit.

103 The local governing body may *also* inspect and enforce the ~~building regulations promulgated by the~~
104 ~~Board~~ *Building Code* for existing buildings *and structures*, whether occupied or not. Such *inspection and*
105 enforcement shall be carried out by an agency or department designated by the *local* governing body.

106 2. That § 36-99.6:1 of the Code of Virginia is repealed.