

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 36-105 of the Code of Virginia, relating to historic structures.*

3 [H 327]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 36-105 of the Code of Virginia is amended and reenacted as follows:**7 § 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings;  
8 inspection warrants; inspection of elevators.9 A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and  
10 rehabilitation shall be the responsibility of the local building department. There shall be established  
11 within each local building department a local board of Building Code appeals whose composition, duties  
12 and responsibilities shall be prescribed in the Building Code. Any person aggrieved by the local building  
13 department's application of the Building Code or refusal to grant a modification to the provisions of the  
14 Building Code may appeal to the local board of Building Code appeals. No appeal to the State Building  
15 Code Technical Review Board shall lie prior to a final determination by the local board of Building  
16 Code appeals. Whenever a county or a municipality does not have such a building department or board  
17 of Building Code appeals, the local governing body shall enter into an agreement with the local  
18 governing body of another county or municipality or with some other agency, or a state agency  
19 approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of  
20 this section, towns with a population of less than 3,500 may elect to administer and enforce the Building  
21 Code; however, where the town does not elect to administer and enforce the Building Code, the county  
22 in which the town is situated shall administer and enforce the Building Code for the town. In the event  
23 such town is situated in two or more counties, those counties shall administer and enforce the Building  
24 Code for that portion of the town situated within their respective boundaries. Fees may be levied by the  
25 local governing body in order to defray the cost of such enforcement and appeals.26 B. New construction. Any building or structure may be inspected at any time before completion, and  
27 shall not be deemed in compliance until approved by the inspecting authority. Where the construction  
28 cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be  
29 waived. A building official may issue an annual permit for any construction regulated by the Building  
30 Code. The building official shall coordinate all reports of inspections for compliance with the Building  
31 Code, with inspections of fire and health officials delegated such authority, prior to issuance of an  
32 occupancy permit.

33 C. Existing buildings and structures.

34 1. Inspections and enforcement of the Building Code. The local governing body may also inspect and  
35 enforce the provisions of the Building Code for existing buildings and structures, whether occupied or  
36 not. Such inspection and enforcement shall be carried out by an agency or department designated by the  
37 local governing body.38 2. Complaints by tenants. However, upon a finding by the local building department, following a  
39 complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may  
40 be a violation of the unsafe structures provisions of the Building Code, the local building department  
41 shall enforce such provisions.42 3. Inspection warrants. If the local building department receives a complaint that a violation of the  
43 Building Code exists that is an immediate and imminent threat to the health or safety of the owner,  
44 tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby  
45 building or structure, and the owner, occupant, or tenant of the building or structure that is the subject  
46 of the complaint has refused to allow the local building official or his agent to have access to the  
47 subject building or structure, the local building official or his agent may present sworn testimony to a  
48 magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local  
49 building official or his agent an inspection warrant to enable the building official or his agent to enter  
50 the subject building or structure for the purpose of determining whether violations of the Building Code  
51 exist. The local building official or his agent shall make a reasonable effort to obtain consent from the  
52 owner, occupant, or tenant of the subject building or structure prior to seeking the issuance of an  
53 inspection warrant under this section.54 4. Transfer of ownership. If the local building department has initiated an enforcement action against  
55 the owner of a building or structure and such owner subsequently transfers the ownership of the building  
56 or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending

57 enforcement action shall continue to be enforced against the owner.

58 5. Elevator, escalator, or related conveyance inspections. The local governing body shall, however,  
59 inspect and enforce the Building Code for elevators, escalators, or related conveyances, except for  
60 elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an  
61 agency or department designated by the local governing body.

62 6. *A locality may require by ordinance that any landmark, building or structure that contributes to a*  
63 *district delineated pursuant to § 15.2-2306 shall not be razed, demolished or moved until the razing,*  
64 *demolition or moving thereof is approved by the review board, or, on appeal, by the governing body*  
65 *after consultation with the review board unless the local maintenance code official consistent with the*  
66 *Uniform Statewide Building Code, Part III Maintenance, determines that it constitutes such a hazard*  
67 *that it shall be razed, demolished or moved.*

68 *For the purpose of this subdivision, a contributing landmark, building or structure is one that adds*  
69 *to or is consistent with the historic or architectural qualities, historic associations, or values for which*  
70 *the district was established pursuant to § 15.2-2306, because it (i) was present during the period of*  
71 *significance, (ii) relates to the documented significance of the district, and (iii) possesses historic*  
72 *integrity or is capable of yielding important information about the period.*