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SENATE BILL NO. 245

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 27, 2024)

(Patron Prior to Substitute—Senator McPike)

A BILL to amend and reenact § 15.2-1804.1 of the Code of Virginia, relating to Department of Energy; building standards for certain local buildings.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1804.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1804.1. (For applicability, see Acts 2021, Sp. Sess. I, c. 473, cl. 2) Building by locality; high performance standards.

A. As used in this section:

"Appropriate resilience features" means features that are included to prepare for, by reducing risk or enabling recovery, acts of nature, failures of systems, or adversarial acts that could cause a major disruption to building functionality. A locality maintains the responsibility for identifying those potential hazards for which a project should prepare and for determining the sufficiency of the incorporated features to address the potential hazard, following consideration of any guidance pursuant to subsection E.

"Commissioning" means the process of ensuring functional performance of mechanical equipment, water heating equipment, lighting, automated control systems, and building envelope, including the steps described in the ICC G4-2018 "Guideline for Commissioning" or successor guidelines and additional guidelines as may be applicable to such systems.

"Design phase" means the design of a building construction or renovation project, which, until July 1, 2025, shall be inclusive of the issuance of a request for proposal and the project budget approval, and after July 1, 2025, shall be based on the effective execution date of the contract with the design team.

"EV" means an electric vehicle.

"High performance building certification program" means a public building design, construction, and renovation program that achieves certification using the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) green building rating standard or the Green Building Initiative's "Green Globes" building standard; ~~or meets the requirements of VEES. For buildings 50,000 square feet and smaller, Earthcraft Light Commercial at the silver level may instead be used for certification under this section.~~

"Locality" means a county, city, or town, inclusive of a school division.

"Major disruption" means a disturbance that interrupts the normal activities that are conducted in a building for a duration of time that would require that building to temporarily or permanently cease operations. Localities may define the parameters that would constitute a major disruption based on the nature and duration of a disrupting event, as well as on building typology, consistent with any guidance pursuant to subsection E.

"Sufficient ZEV charging and fueling infrastructure" means the provision of ZEV charging or fueling infrastructure, including EV-ready charging electrical capacity and pre-wiring, (i) sufficient to support every passenger-type vehicle owned by the locality and available for use by the locality that will be located at such building upon full occupancy, meet projected demand for such infrastructure during the first 10 years following building occupancy, or (ii) that achieves the current ZEV or EV charging credit for a high performance building certification program EV supply equipment, EV-ready charging electrical capacity and pre-wiring, or fueling infrastructure for other ZEVs that is deemed sufficient based on meeting relevant guidelines or recommendations available during the design phase of a project from either the Virginia Department of Energy pursuant to subsection E or the U.S. Department of Energy.

"VEES" means the Virginia Energy Conservation and Environmental Standards developed by the Department considering the U.S. Green Building Council (LEED) green building rating standard, the Green Building Initiative "Green Globes" building standard, and other appropriate requirements as determined by the Department.

"ZEV" means a zero-emissions vehicle.

B. Any locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size, or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building, shall ensure that such building:

1. Is designed, constructed, verified, and operated to comply with a high performance building certification program;

2. Has sufficient ZEV charging and fueling infrastructure. ~~In making a sufficiency determination, the~~

60 locality may also consider the interest of the Commonwealth in providing infrastructure for nearby
61 locations, geographical gaps in ZEV charging infrastructure, availability of incentives, and other factors;

62 3. Has features that permit the agency or institution to measure the building's energy consumption
63 and associated carbon emissions, including metering of all electricity, gas, water, and other utilities; and

64 4. Incorporates appropriate *onsite renewable energy generation, energy storage, and resilience and*
65 *distributed energy* features *as determined by the locality and following consideration of any guidance*
66 *pursuant to subsection E.*

67 C. Notwithstanding the provisions of subsection B, for any such construction or renovation of a
68 building that is less than 20,000 gross square feet in size, the locality may instead ensure that such
69 building achieves the relevant ENERGY STAR certification and implement ~~mechanical, electrical,~~
70 ~~plumbing, and envelope~~ commissioning. *In the event that the specific building type is not eligible for*
71 *ENERGY STAR certification, then the locality shall demonstrate, using energy modeling, that the project*
72 *has been designed to perform at least as well as the ENERGY STAR Target Finder value for that*
73 *building type or that the project has been designed to meet equivalent standards for such building types*
74 *as provided in guidance pursuant to subsection E.*

75 D. Upon a finding that special circumstances make the construction or renovation to the standards
76 impracticable, the governing body of such locality may, by resolution, grant an exemption from any
77 such design and construction standards. Such resolution shall be made in writing and shall explain the
78 basis for granting the exemption. If the local governing body cites cost as a factor in granting an
79 exemption, the local governing body shall include a comparison of the cost the locality will incur over
80 the next 20 years or the lifecycle of the project, whichever is shorter, if the locality does not comply
81 with the standards required by subsection B versus the costs to the locality if the locality were to
82 comply with such standards.

83 *E. The Department of Energy shall upon request provide technical assistance related to subsections*
84 *A, B, and C to localities subject to available budgetary resources. Such technical assistance may include*
85 *the issuance of guidance.*

86 ~~E.~~ F. Any local governing body may, by ordinance, adopt its own green design and construction
87 program ~~that includes standards that are.~~ *When a local program includes standards that address all of*
88 *the requirements in subsection B and is equal in stringency to or more stringent than any equivalent*
89 ~~standard the standards in subsection B.~~ *While such program remains in effect, the locality shall be*
90 *deemed compliant with the provisions of this section.*