



FILED

WEST VIRGINIA LEGISLATURE  
Legislative Rule-Making Review Committee

2003 JAN -8 A 10: 35

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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January 08, 2003

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Arnett B. Corley  
Fire Commission, WV State  
1207 Quarrier Street  
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **State Building Code, 87CSR4**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia State Fire Commission

Subject: State Building Code, 87CSR4

FILED  
2002 AUG 23 A 9:43  
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PERTINENT DATES

Filed for public comment: April 5, 2002

Public comment period ended:

Filed following public comment period: July 19, 2002

Filed LRMRC: July 19, 2002

Filed as emergency:

Fiscal Impact: Increase cost of \$10,000

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 2 defines terms. Definitions for several terms have been added.

Section 4 relates to national standards and codes. It has been amended to adopt the standards and requirements published by the International Code Council and American Standards Institute instead of the Building Officials and Code Administrators International Standards. This section also contains several exceptions to the ICC standards.

- It deletes Section 101.146 relating to fire prevention;
- It modifies the duties and powers of building officials to provide for mandatory enforcement; and
- It replaces the entire section on board of appeals.

The proposed rule adopts the International Residential Code but makes changes to the sections on light activation, landings at

doors, stair geometry, handrails and frost protected shallow foundations. The proposed rule also adds sections relating to foundations. It also states that the sections dealing with building clearances from ascending slopes and footings setbacks from descending slope surfaces are not applicable to the rule.

The proposed rule also replaces all of Chapter 11 relating to energy efficiency.

#### AUTHORITY

Statutory authority: W.Va. Code, §29-3-5b, which provides, in part, as follows:

...(b) The state fire commission has authority to propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, regarding building construction, renovation and all other aspects as related to the construction and mechanical operations of a structure. The rules shall be known as the "State Building Code."...

#### ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

- IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

- V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

The Commission received comments from several parties who felt that the ICC Code is being adopted too precipitously and that the Commission should wait on the National Fire Protection Association's Building Code before adopting any code. The Commission also received comments from several people who were in favor of the proposed rule but were not in favor of the various exceptions to the national code. Particular concern was noted over the substitution of Chapter 11. According to the Commission, this language was provided by the National Homebuilder's Association, who felt the national requirements are excessive where affordable housing is concerned.

- VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

- VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

- VIII. OTHER

Counsel has technical modifications to suggest.