

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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FILED

JAN 20 12 25 PM '90

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: STATE FIRE COMMISSION TITLE NUMBER: 87

CITE AUTHORITY 29-3-5b

AMENDMENT TO AN EXISTING RULE: YES XX NO     


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: State Building Code

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:                     

TITLE OF RULE BEING PROPOSED:   

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
State Fire Marshal for the  
State Fire Commission

\$2.80

TITLE 87  
LEGISLATIVE RULE  
STATE FIRE COMMISSION  
SERIES 4  
STATE BUILDING CODE

FILED  
JAN 20 12 25 PM '90  
OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES  
SECRETARY OF STATE

87-4-1 GENERAL

1.1 Scope: This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure the quality of construction of all structures erected or renovated throughout this state.

1.2 Authority: West Virginia Code 29-3-5b.

1.3 Filing Date:

1.4 Effective Date:

1.5 Incorporation of other Documents: This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Subsection 4.1 of this rule. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

87-4-2 DEFINITIONS

2.1 "Building code" - includes all aspects of safe building construction and mechanical operations and all safety aspects related to building construction and mechanical operations.

2.2 "Fire marshal" - means the West Virginia State Fire Marshal or his or her designated representatives.

2.3 "Fire Commission" - means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4 "Local jurisdiction" - means municipal or county level government.

2.5 "State Building Code" - means the entire contents of this rule and the referenced national codes.

2.6 "BOCA" - refers to the "Building Officials & Code Administrators International".

2.7 "CABO" - refers to the "Council of American Building Officials", 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041.

#### 87-4-3 CONFLICTS

3.1 Whenever there is a conflict between the "state fire code" and the "state building code", the state fire code takes precedence.

3.2 Whenever there is a conflict between the BOCA National Plumbing Code section of the "state building code" and the rules of the West Virginia State Department of Health and Human Resources, the rules of the Department of Health and Human Resources takes precedence.

3.3 Whenever there is a conflict between the "state building code" and statutory laws of the State of West Virginia, the West Virginia Code takes precedence.

#### 87-4-4 NATIONAL STANDARDS AND CODES

4.1 The standards and requirements as set out and as published by the Building Officials & Code Administrators International and the Council of American Building Officials, as listed below, have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code, Thirteenth Edition, 1996  
EXCEPTION TO 1014.6 Treads & Risers: Design and Construction to be in accordance with 1993 BOCA National Building Code, Twelfth Edition for one & two family dwellings.

The International Plumbing Code, First Edition, 1995

The International Mechanical Code, First Edition, 1996

The BOCA National Property Maintenance Code, Fifth Edition, 1996  
This Maintenance Code may be rejected at the option of the local jurisdiction.

The BOCA National Energy Conservation Code, Seventh Edition, 1993

The CABO One - and Two-Family Dwelling Code, 1995 Edition  
EXCEPTION to 314.2 Stairway: Design and Construction of Stair to be in accordance with the 1992 CABO one- and two-family dwelling code.

4.1.1 Group U utility structures and storage sheds comprising an area not more than 150 sq. ft. which have no plumbing or electrical connections and are utilized only for residential storage purposes are not subject to inspection by local jurisdictions (Examples include storage sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections or are used for the storage of explosives or other hazardous or explosive materials.

4.1.2 Exceptions:

4.1.2.a References to the CABO Model Energy Code, 1995 Edition, in the various national standards and codes adopted in this section mean the BOCA National Energy Conservation Code, 1993 Edition, as adopted in this section.

4.2 A copy of the codes listed in Subsection 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795, telephone 708/799-2300; or BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43231, telephone 614/890-1061.

#### 87-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. The local jurisdiction shall send a copy of the ordinance or order to the State Fire Marshal, West Virginia State Fire Commission, State Capitol Complex, Charleston, West Virginia 25305, within thirty (30) days of adoption.

5.2 Each local jurisdiction which adopts the State Building Code has responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.

5.3 Throughout the national codes, as adopted in Subsection 4.1 of this rule, there are discretionary provisions which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction".

5.4 Within the penalty sections of each of the national codes, as adopted in Subsection 14.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is optional with each adopting local jurisdiction.

5.5 Each of the national codes, as adopted in Subsection 4.1 of this rule, provides for a separate appeals board. However, the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

#### 87-4-6 EXISTING BUILDING CODES

6.1 All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, are null and void.



**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

*State Capitol - Room MB-49*  
*Charleston, West Virginia 25305*  
*(304) 347-4840*

FILED

JAN 16 9 41 AM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

*Senator: Mike Ross, Co-Chairman*  
*Delegate: Mark Hunt, Co-Chairman*  
*Counsel: Debra A. Graham*

*Joseph A. Altizer, Associate Counsel*  
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*Audrey R. Ross, Admin. Assistant*

January 12, 1998

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Walter Smittle, III  
State Fire Marshal  
State Fire Commission  
1207 Quarrier Street-2nd Floor  
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 rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.