

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

Form #6

DO NOT MARK IN THIS BOX

**FILED**

APR 4 12 47 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: STATE FIRE COMMISSION TITLE NUMBER: 87

AMENDMENT TO AN EXISTING RULE: YES X, 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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 196

SECTION 64-6-4, PASSED ON March 9, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: May 1, 1996

Bill L. Spencer  
AUTHORIZED SIGNATURE

Chairman  
State Fire Commission

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

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: April 4, 1996

1.4 Effective Date: May 1, 1996

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 Section 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 thereto.

2.2 "Fire marshal" - means the West Virginia State Fire Marshal and/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 Board of Health, the rules of the Board of Health 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, shall have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code,  
Twelfth Edition, 1993

The BOCA National Plumbing Code,  
Ninth Edition, 1993

The BOCA National Mechanical Code,  
Eighth Edition, 1993

The BOCA National Property Maintenance Code,  
Fourth Edition, 1993  
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  
1992 Edition

4.1.1 The following structures are not subject to inspection by local jurisdictions:

4.1.1.a 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. (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.

4.2 A copy of the codes listed in Section 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 Section 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 Section 14.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is to be considered optional with each adopting local jurisdiction.

5.5 Each of the national codes, as adopted in Section 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, shall be null and void one year following the effective date of the State Building Code of April 28, 1989.

#### 87-4-7 SEVERABILITY

7.1 The sections and subsections of this rule are severable. Should any section or sub section be ruled unconstitutional by judicial opinion or in any manner contrary to the laws of the State of West Virginia, then the opinion or enactment invalidates only that particular section or subsection of this rule and all other sections remain in full force and effect: Provided, the remaining portions are not determined to be inseparable, and to this end this rule is declared severable.

874

Bill-Fire, Building

L918

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H. B. 2167

(By Delegates Gallagher, Douglas, Compton,  
Linch, Faircloth and Riggs.)

(Introduced January 23, 1995; referred to the  
Committee on Government Organization then the Judiciary.)

10 A BILL to amend and reenact section two, article six, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 fire commission to promulgate legislative rules relating to  
14 the state building code.

15 **Be it enacted by the Legislature of West Virginia:**

16 That section two, article six, chapter sixty-four of the code  
17 of West Virginia, one thousand nine hundred thirty-one, as  
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND**  
20 **PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.**

21 **§64-6-2. Fire commission.**

22 (a) The legislative rules filed in the state register on the  
23 third day of January, one thousand nine hundred eighty-four,

1 relating to the state fire commission (state fire code), are  
2 authorized with the amendments set forth below:

3       On page 1, section 106, line 1, after the word "to" add the  
4 words "personal care homes caring for five or less patients or";

5       And,

6       On page 26, section 11.06 (3) A. (3), strike the period at  
7 the end of the sentence and add the words "except for existing  
8 sleeping rooms owned by the state and located in dormitories or  
9 state parks."

10       (b) The legislative rules filed in the state register on the  
11 first day of August, one thousand nine hundred eighty-six,  
12 modified by the state fire commission to meet the objection of  
13 the legislative rule-making review committee and refiled in the  
14 state register on the twenty-eighth day of October, one thousand  
15 nine hundred eighty-six, relating to the state fire commission  
16 (hazardous substance emergency response training program), are  
17 authorized.

18       (c) The legislative rules filed in the state register on the  
19 sixth day of September, one thousand nine hundred eighty-eight,  
20 modified by the state fire commission to meet the objections of  
21 the legislative rule-making review committee and refiled in the  
22 state register on the eighth day of December, one thousand nine  
23 hundred eighty-eight, relating to the state fire commission  
24 (state building code), are authorized.

1 (d) The legislative rules filed in the state register on the  
2 fourteenth day of August, one thousand nine hundred eighty-nine,  
3 modified by the state fire commission to meet the objections of  
4 the legislative rule-making review committee and refiled in the  
5 state register on the fifteenth day of January, one thousand nine  
6 hundred ninety, relating to the state fire commission  
7 (electrician licensing), are authorized with the following  
8 amendment:

9 On page 6, section 3.03, by deleting all of subsection (A)  
10 and inserting in lieu thereof the following:

11 "(A) Any person who performs electrical work with respect to  
12 any property owned or leased by such person. For purposes of  
13 this subparagraph: (1) 'property owner' includes the property  
14 owner, lessee, and his or her maintenance personnel; and, (2)  
15 'performs electrical work' includes routine maintenance, repairs,  
16 and improvements to existing structures; or."

17 (e) The legislative rules filed in the state register on the  
18 fourteenth day of August, one thousand nine hundred eighty-nine,  
19 modified by the state fire commission to meet the objections of  
20 the legislative rule-making review committee and refiled in the  
21 state register on the twenty-fifth day of October, one thousand  
22 nine hundred eighty-nine, relating to the state fire commission  
23 (fees for services rendered), are authorized with the amendment  
24 set forth below:

1 On page 1, section 2.1(G), by striking out the word  
2 "underground."

3 (f) The legislative rules filed in the state register on the  
4 eleventh day of August, one thousand nine hundred eighty-nine,  
5 modified by the state fire commission to meet the objections of  
6 the legislative rule-making review committee and refiled in the  
7 state register on the twenty-sixth day of October, one thousand  
8 nine hundred eighty-nine, relating to the state fire commission  
9 (fire code), are authorized.

10 (g) The legislative rules filed in the state register on the  
11 sixteenth day of July, one thousand nine hundred ninety, modified  
12 by the state fire commission to meet the objections of the  
13 legislative rule-making review committee and refiled in the state  
14 register on the fifteenth day of November, one thousand nine  
15 hundred ninety, relating to the state fire commission (state  
16 building code), are authorized with the amendments set forth  
17 below:

18 On page two, subsection 4.1 after the words "The BOCA  
19 National Property Maintenance Code, Third Edition, 1990" insert  
20 the following ": Provided, That section PM-104.4 Right of Entry  
21 may be adopted or rejected at the option of the local  
22 jurisdiction."

23 And,

24 On page two, subsection 4.1 by adding thereto a new  
25 subdivision, designated subdivision 4.1.1 to read as follows:

1 "4.1.1 The following structures shall not be subject to  
2 inspection by local jurisdictions:

3 4.1.1.a Group U utility structures and storage sheds  
4 comprising an area of not more than 150 square feet which have no  
5 plumbing or electrical connections and are utilized only for  
6 residential storage purposes. (Examples include storage sheds  
7 that are for the residential storage of lawnmowers, tools,  
8 bicycles or furniture) Group U utility structures do not include  
9 those utility structures and storage sheds which have plumbing or  
10 electrical connections or are used for the storage of explosives  
11 or other hazardous or explosive-type materials."

12 (h) The legislative rules filed in the state register on the  
13 thirteenth day of August, one thousand nine hundred ninety,  
14 modified by the state fire commission to meet the objections of  
15 the legislative rule-making review committee and refiled in the  
16 state register on the fifteenth day of January, one thousand nine  
17 hundred ninety-one, relating to the state fire commission (state  
18 fire code), are authorized.

19 (i) The legislative rules filed in the state register on the  
20 fourteenth day of August, one thousand nine hundred ninety-two,  
21 modified by the state fire commission to meet the objections of  
22 the legislative rule-making review committee and refiled in the  
23 state register on the thirtieth day of November, one thousand  
24 nine hundred ninety-two, relating to the state fire commission  
25 (electrician licensing), are authorized.

1        (j) The legislative rules filed in the state register on the  
2 eighth day of August, one thousand nine hundred ninety-four,  
3 modified by the fire commission to meet the objections of the  
4 legislative rule-making review committee and refiled in the state  
5 register on the sixteenth day of November, one thousand nine  
6 hundred ninety-four, relating to the fire commission (state  
7 building code), are authorized.

8

9        NOTE: The purpose of this bill is to authorize the Fire  
10 Commission to promulgate legislative rules relating to the State  
11 Building Code.

12

13        Strike-throughs indicate language that would be stricken from  
14 the present law, and underscoring indicates new language that  
15 would be added.

103  
SENATE BILL NO. 103

(By Senators Manchin, Anderson, Boley, Grubb and Macnaughtan)

[Introduced January 20, 1995; referred to the Committee on the Judiciary]

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87-4

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15 would be added.



KEN HECHLER,  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900

**STATE OF WEST VIRGINIA**  
**SECRETARY OF STATE**  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

**FILED**

WILLIAM H. HARRINGTON  
Chief of Staff

MAY 15 9 37 AM '96  
JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

(Plus all the volunteer  
help we can get)

TO: Walter Smittle III

AGENCY: Fire Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION.

DATE: May 8, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 4 TITLE: 87 Fire Commission

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: *Walter Smittle III*

TITLE OF PERSON SIGNING: STATE FIRE MARSHAL

DATE: 5-10-96

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

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WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

March 12, 1996

Walter Smittle III  
Fire Commission  
2100 Washington Street East  
State Capitol Complex  
Charleston, WV 25305

**SB 196** authorizing, **Title 87, Series 04, State Building Code** passed the Legislature on **March 9, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 196** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 196 Section 64-6-4**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,  
Administrative Law Division