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**HOUSE BILL NO. 2577**

Offered January 13, 2025

Prefiled January 12, 2025

*A BILL to amend and reenact § 36-99 of the Code of Virginia, relating to Uniform Statewide Building Code; unsafe structures.*

Patron—Leftwich

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 36-99 of the Code of Virginia is amended and reenacted as follows:****§ 36-99. Provisions of Code; modifications.**

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for individuals with physical disabilities and aged individuals. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable. However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:

1. Portable fire extinguishers for the purpose of fire suppression;

2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and

3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or

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59 designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the  
60 Commonwealth, may issue amended regulations establishing interim performance standards and Code  
61 provisions for the installation, application, and use of such building materials, methods or designs in the  
62 Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia  
63 Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become  
64 effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of  
65 24 months or until adopted, modified, or repealed by the Board.

66 *E. For any structure deemed unsafe under the Building Code, and therefore eligible for demolition upon*  
67 *the unsafe notice process being completed, the owner or his agent may temporarily overcome the unsafe*  
68 *structure designation by vacating and securing the structure by board up of all access points.*

69 *After six months have elapsed from the time the board up was first learned of and internally recorded by*  
70 *the locality, if the structure would still otherwise be considered an unsafe structure, the locality may issue*  
71 *and send a written notice to the owner that if the other conditions specified in the notice are not adequately*  
72 *improved, or an appeal not received, within two months, the unsafe designation will once again come into*  
73 *effect. That notice may be appealed in the same manner as any other formal building determination, and the*  
74 *owner may receive additional time from the local board of Building Code appeals if he demonstrates in*  
75 *writing that additional time is likely to result in the resolution of the unsafe condition. Upon the expiration of*  
76 *the two months, or upon the denial of the appeal by the local board of Building Code appeals, whichever*  
77 *occurs later, the structure shall again be deemed unsafe, and upon notice to the owner, the locality may*  
78 *resume its unsafe process at the stage at which it was paused by the securing and vacating of the property.*  
79 *Once the securing, board up, and vacating process has occurred once, it cannot be used again to overcome*  
80 *the unsafe designation during the pendency of that specific unsafe designation.*

81 *The unsafe designation will continue to be in effect in the event that it is the locality that secured the*  
82 *structure, and not the owner or his agent.*

83 *Notwithstanding the provisions of this subsection, when the building code official determines that an*  
84 *unsafe structure constitutes such a hazard that it should be demolished, then the building code official shall*  
85 *be permitted to order the demolition of such structure in accordance with applicable requirements of law.*

86 *If a locality demolishes a structure under an unsafe designation after it was secured and vacated by the*  
87 *owner pursuant to the provisions of this section, the property will not lose any legal nonconformity as a result*  
88 *of that demolition.*

89 *For purposes of this subsection, "notice" means sent by certified mail, return receipt requested.*