

## **VBCOA/VPMIA 2017 Session LEGISLATIVE COMMITTEE REPORT final**

(Revised 04-10-17)

Thru- HB 2477, HJ 826, HR 333, SB 1592, SJ 341, SR 120

The legislative committee met via conference January 23, 2017. On the call was Lewis Watts (R4), Emory Rodgers, Gregg Fields, David Beahm (R3), Mike Eutsey (R7), Richard Potts, Cindy Davis, Art Berkley (R8), Julie Walton (R6/chair), Ron Clements (R6/Chair), Sam Sapienza (R2) could not call in but submitted comments via email.

### **HB 1404 Status- Signed into Law by the Governor**

#### **Support-**

*Chief patron:* Cole

**Activation of fire alarms; penalty.** Removes the provision that a building must be for public use in order for the Class 1 misdemeanor for maliciously activating a fire alarm to apply. The Class 1 misdemeanor will apply to all buildings

### **HB 1506 Status- Died in House Committee**

**No Position-** May be of interest to those that enforce zoning ordinances.

*Chief patron:* Helsel

**Vacant developed property; overgrown shrubs and trees.** Authorizes localities to require owners of vacant developed property to cut overgrown shrubs and trees on the property. The bill also authorizes localities, after reasonable notice, to cut overgrown shrubs and trees on vacant developed property and charge the cost to the owner.

### **HB 1538 Status- Signed into Law by the Governor**

**Support, amended to add “or any successor code” after BOCA.** See line 942 in the bill. This is just a clean-up old language bill.

*Chief patron:* LeMunyon

**Revision of Title 23; corrections.** Corrects typographical errors and makes other technical amendments relating to the revision and recodification of Title 23 and declares such corrections and amendments to be effective retroactively to October 1, 2016. The bill is a recommendation of the Code Commission

### **HB 1539 Status- Governor’s amendments enacted**

**No Position-** This does relocate and consolidate the building plan related FOIA exemptions but does not alter the exemptions. This was recommended from the FOIA Council as mandated by HJR96.

*Chief patron:* LeMunyon

**Virginia Freedom of Information Act (FOIA); public access to records of public bodies.** Clarifies the definition of public record. The bill also (i) defines "personal contact information" that is excluded from FOIA's mandatory disclosure provisions in certain cases; (ii) clarifies that a requester has the right to inspect records or receive copies at his option; (iii) clarifies language in certain record exclusions under FOIA that certain records may be disclosed at the discretion of the custodian; (iv) consolidates the personnel record exclusion with the limitation on the application of that exclusion, and specifically clarifies that the name, in addition to position, job classification, and salary, of a public employee is public information as per opinions of the Attorney General and the FOIA Council; (v) eliminates, effective July 1, 2018, the exclusion for the Alcoholic Beverage Control Authority relating to operating and marketing strategies; (vi) eliminates the exclusion for correspondence of local officials as unnecessary; (vii) consolidates various public safety exclusions relating to building plans and drawings and critical infrastructure into a single exclusion; (viii) eliminates the exclusion for administrative investigations of the Department of Human Resource Management, as the exclusion is already covered under the personnel records exclusion; (ix) expands the exclusion for personal information provided to the Virginia College Savings Plan to cover qualified beneficiaries, designated survivors, and authorized individuals, which terms are defined in the bill; (x) consolidates the various record exclusions for the Department of Health Professions and the Department of Health into single exclusions for each Department; (xi) clarifies certain Department of Social Services exclusions; (xii) provides an exclusion for local finance boards that provide postemployment benefits other than pensions; and (xiii) eliminates the record exclusion for Virginia Wildlife Magazine. The bill also eliminates the correspondence exclusion for certain state and local officials. The bill contains numerous technical amendments. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the [HJR 96](#) FOIA study (2014-2016).

**[HB 1563](#) Status- Died in House Committee**

**[SB 877](#) Status- Died in Senate Committee**

**No Position-** VBCOA was involved in development of VA Health Department regulations associated to this provision of law. It does not directly affect the building code.

*Chief patron:* Favola (877), Kory (1563)

**Regulations governing hospitals; facilities performing abortions.** Removes language classifying facilities that perform five or more first trimester abortions per month as hospitals for the purpose of complying with regulations establishing minimum standards for hospitals.

**[HB 1565](#) Status- Signed into Law by the Governor**

**No Position-** This bill refers to the USBC but imposes no responsibility on the building official.

*Chief patron:* Webert

**Local tax and regulatory incentives; green development zones.** Authorizes localities to create green development zones that provide certain tax incentives and regulatory flexibility for up to 10 years to a business operating in an energy-efficient building or to a business that produces products used to reduce negative impact on the environment.

**[HB 1587](#) Status- Signed into Law by the Governor**

**Oppose or no opposition if modified to allow owner and applicant to FOIA-** This would prevent us from providing a builder or home owner a copy of their approved plan if it were lost. This appears to be putting us in the middle of the copy right battle.

*Chief patron:* Campbell

**Uniform Statewide Building Code; security of certain records.** Provides that information contained in engineering and construction drawings and plans for any single-family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) shall be confidential and shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

### **HB 1824 Status- Stricken from Docket**

#### **No Position**

*Chief patron:* LaRock

**Department of Professional and Occupational Regulation; deregulation of interior designers, landscape architects, and polygraph examiners.** Eliminates the requirements for licensure of landscape architects and polygraph examiners and certification of interior designers. The bill contains numerous technical amendments to accomplish the deregulation of these professions.

### **HB 1860 Status- Died in House Committee**

**No Position-** This bill prescribes the Water Control Board promulgate regulations for tank construction. USBC section 414.6.2 already provides that WCB regulations are incorporated into the USBC so coordination should be good.

*Chief patron:* Lopez

**Aboveground storage tanks; fund; civil and criminal penalties.** Directs the State Water Control Board (the Board) to regulate aboveground storage tanks that measure more than 5,000 gallons in capacity and are used to contain dangerous substances other than oil. The bill directs the Board to adopt regulations that establish construction standards, requirements for registration, certification, and inspection, and other requirements of tank owners and establish a schedule of fees. The bill authorizes the Board to require the owner to undertake corrective action, or to undertake its own corrective action, in the event of a release of a regulated substance. The bill requires tank owners to register their tanks, develop release response plans, upgrade certain older tanks, install containment infrastructure for certain tanks, notify certain parties in the event of a release of a regulated substance, and demonstrate their financial responsibility. The bill also creates the Aboveground Storage Tank Fund and provides for civil and criminal penalties for violations of requirements of the bill.

### **HB 1936 Status- Signed into Law by the Governor**

#### **No Position-**

*Chief patron:* Carr

**Derelict and blighted buildings; land banks; receivership.** Authorizes a locality to petition the circuit court to appoint a land bank entity to act as a receiver in certain limited circumstances to repair derelict and blighted buildings that contains residential dwelling units.

### **HB 1979 Status- Signed into Law by the Governor**

### **SB 1193 Status- Signed into Law by the Governor**

#### **No Position-**

*Chief patron:* Peace (1979), Stuart (1193)

**Board for Contractors; Class D registration; responsibility for contracting with unlicensed or unregistered person.** Defines a Class D contractor and requires a Class D contractor to be registered by the Board for Contractors. The bill also (i) provides that any contractor who directly employs, or otherwise contracts with, a person who is not licensed or registered by the Board for Contractors for work requiring a contractor's license or registration shall be solely responsible for any monetary penalty or other sanction resulting from employing or contracting with an unlicensed or unregistered person based upon such person's failure to obtain or maintain the required license or registration; (ii) requires the Board for Contractors to adopt regulations implementing these provisions on or before October 1, 2017; and (iii) provides that the initial regulations of the Board for Contractors are exempt from the provisions of the Administrative Process Act but that any subsequent modification to such regulations shall comply with the Administrative Process Act.

**[HB 2203](#) Status- Signed into Law by the Governor**

**[SB 1123](#) Status- Signed into Law by the Governor**

**No opposition to the HB 2203 substitute as a title 1 request for DHCD to consider the issue or the SB1123 substitute that does not reference the USBC.** We do not oppose the original bill but have been working to keep amendments from referencing the USBC. We have offered to facilitate interested parties with getting involved in the code update process. The substitute asks DHCD to consider amending the notice process to residents of mobile home parks regarding violations cited to the mobile home park owner.

*Chief patron:* HB2203 Torian, SB1123 McPike

**Manufactured Home Lot Rental Act; notice to tenant of building code violation; renewal of lease.** Requires a manufactured home park operator (the landlord) to provide written notification to each year-round resident whose rental agreement is subject to automatic renewal of any violations that have been cited by the locality involving the failure of the park operator to comply with the obligations imposed by the Manufactured Home Lot Rental Act (§ 55-248.41 et seq.) at least 60 days before the termination date of the rental agreement. If the violations cited by the locality have not been corrected within 30 days of the termination date, the automatic renewal provision of the Act shall not apply. Additionally, the bill provides that if the landlord fails to provide the required notice, the tenant shall have the right to terminate the rental agreement upon written notice to the landlord at least five business days prior to the effective date of termination. The bill states that if the tenant terminates the rental agreement, the landlord shall make disposition of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is applicable.

**[HB 2335](#) Status- Died in the full House**

**Support-**

*Chief patron:* Watts

**Board for Contractors; unlicensed activity; penalty.** Provides that, in addition to existing penalties for unlicensed activity, any second or subsequent violation by any person who undertakes work without a valid Virginia contractor's license or certificate when a license or certificate is required shall constitute a Class 6 felony.

**[HB 2477](#) Status- Signed into Law by the Governor**

**No Position-**

*Chief patron:* Orrack

**Department of Health to take steps to eliminate site evaluation and design services for onsite sewage systems and private wells.** Directs the Department of Health to take certain steps to eliminate site evaluation and design services for onsite sewage systems and private wells provided by the Department.

## **HJ 705 Status- Died in House committee**

### **No Position**

*Chief patron:* Yancey

**Encouraging localities to develop a more uniform and streamlined permitting process.** Expresses the sense of the General Assembly that localities be encouraged to develop a more uniform and streamlined permitting process. Such an effort would benefit from having the Virginia Association of Counties and the Virginia Municipal League take the lead in developing a model application and permitting process while utilizing the best practices from localities throughout the Commonwealth.

## **SB 812 Status- Governor's amendments enacted**

**No Opposition with amendments we negotiated-** *B. If a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia Construction Code, effective May 1, 2008, he shall include that observation in the report along with the following statement: "Manufacturers believe that this product is safer if properly bonded as required by the manufacturer's installation instructions. Proper bonding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."*

*Chief patron:* Marsden

**Board for Asbestos, Lead, and Home Inspectors; home inspections; required statement related to the presence of yellow shaded corrugated stainless steel tubing.** Provides that whenever a home inspector observes the presence of any shade of yellow shaded corrugated stainless steel tubing during a home inspection, his observation must be included in the inspection report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product can only be determined by a licensed electrical contractor."

## **SB 919 Status- Signed into Law by the Governor**

**Support-** This originally provided an accelerated path for a locality to remove a dangerous building, under title 15 authority to remove buildings, with involvement from the building official. The bill was amended to remove the accelerated path and include the cost of removing buildings per the USBC to the same level as tax liens for collection.

*Chief patron:* Edwards

**Removal of blight; building collapse; emergency.** Authorizes localities to immediately remove, repair, or secure any building in the event that an emergency is deemed to exist, as certified in writing by the local building code official, without complying with prescribed notice requirements.

## **SB 920 Status- Signed into Law by the Governor**

**Support-** This makes it clear that a lien for removed buildings is of as high a priority as tax liens.

*Chief patron:* Edwards

**Lien priority.** Inserts "real estate" in several places related to the priority of tax liens so that the operative language now reads "on a parity with liens for unpaid local real estate taxes.

### **SB 964 Status- Signed into Law by the Governor**

**No Position-** May be of interest to those that enforce zoning ordinances.

*Chief patron:* Hanger

**Running bamboo; cutting by localities; ordinance prohibiting spread; designation of certain plants as noxious weeds.** Authorizes any locality to adopt ordinances requiring proper upkeep of running bamboo and prohibiting the spread of running bamboo from a landowner's property, with violations punishable by a civil penalty of \$50. The bill includes running bamboo in the "other foreign growth" that current law allows localities to regulate and in some cases to cut. The bill also directs the Department of Conservation and Recreation (DCR) and the Department of Agriculture and Consumer Services (VDACS) to develop a model running bamboo ordinance and, with the Department of Forestry, to enter into a Memorandum of Understanding that clarifies the roles of the VDACS noxious weeds regulations and the work of the Virginia Invasive Species Working Group. Finally, the bill directs VDACS and DCR to examine the eligibility of certain plants for designation as noxious weeds

### **SB 980 Status- Died in Senate Committee**

**No Position-** The perennial consumer fireworks bill.

*Chief patron:* Stanley

**Statewide Fire Prevention Code; State Fire Marshal; consumer fireworks; penalties.** Authorizes the use of consumer fireworks in the Commonwealth and distinguishes by definition consumer fireworks from display fireworks and permissible fireworks. The bill defines "consumer fireworks" as small fireworks devices (i) containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion and (ii) complying with certain federal regulations regarding composition and labeling. The bill also provides that the storage and transportation of consumer fireworks are to be considered the same hazard class as the storage and transportation of 1.4G explosives under the Statewide Fire Prevention Code (SFPC) and Uniform Statewide Building Code. The bill excludes from the provisions of the SFPC, unless prohibited by a local ordinance, (a) the sale of permissible or consumer fireworks; (b) any person using, igniting, or exploding permissible or consumer fireworks on residential or agricultural property with the consent of the owner of such property; or (c) such permissible or consumer fireworks when they are being transported from a locality where they were legally obtained to a locality where they are legally permitted. Current law only excludes sale of permissible fireworks or the use of such fireworks on private property. The bill also creates a 12 percent tax on the purchase of all consumer fireworks to be paid to the locality in which the tax was collected for the support of fire and rescue services. The bill has a delayed effective date of January 1, 2018. The bill contains technical amendments.

### **SB 1365 Status- Died in Senate Committee**

**Oppose-** This bill attempts to move promulgation of the SFPC from the Board of Housing to the Fire Services Board.

*Chief patron:* Edwards

**Statewide Fire Prevention Code; authority of the Virginia Fire Services Board; fees for school inspections.** Transfers primary authority for the adoption of the Statewide Fire Prevention Code from the Board of Housing and

Community Development to the Virginia Fire Services Board. The bill also removes the prohibition against the State Fire Marshal's charging fees for school inspections. The bill contains technical amendments.

### **SB 1411 Status- Died in Senate Committee**

**No position-**

*Chief patron:* Suetterlein

**Statewide Fire Prevention Code; State Fire Marshal; consumer fireworks; penalties.** Authorizes the use of consumer fireworks in the Commonwealth and distinguishes by definition consumer fireworks from display fireworks and permissible fireworks. The bill defines "consumer fireworks" as small fireworks devices (i) containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion and (ii) complying with certain federal regulations regarding composition and labeling. The bill also provides that the storage and transportation of consumer fireworks are to be considered the same hazard class as the storage and transportation of 1.4G explosives under the Statewide Fire Prevention Code (SFPC) and Uniform Statewide Building Code. The bill excludes from the provisions of the SFPC, unless prohibited by a local ordinance, (a) the sale of permissible or consumer fireworks; (b) any person using, igniting, or exploding permissible or consumer fireworks on residential or agricultural property with the consent of the owner of such property; or (c) such permissible or consumer fireworks when they are being transported from a locality where they were legally obtained to a locality where they are legally permitted. Current law only excludes sale of permissible fireworks or the use of such fireworks on private property. The bill has a delayed effective date of January 1, 2018. The bill contains technical amendments.

### **SB 1433 Status- Died in Senate Committee**

**Oppose to lines 124-131-** Opposition is to the provisions of the bill that legislate building code matters. We are working with the lobbyist to resolve our issues.

*Chief patron:* Reeves

**Regulation of the sale of consumer fireworks; Board of Housing and Community Development; criminal and civil penalties.** Authorizes a person to sell consumer fireworks if he possesses a federal permit to sell fireworks, a permit issued by the Board of Housing and Community Development, and a local permit, if and as required by the locality where the sales facility is located. The measure directs the Board to establish requirements and establish a process for the issuance and renewal of permits for the sale of consumer fireworks. A permittee is required to carry, with respect to each permitted facility, public liability and product liability insurance with minimum limits of \$5 million to cover the losses, damages, or injuries that might ensue to persons or property as a result of the sales of consumer fireworks. The measure specifies certain requirements for facilities at which consumer fireworks are permitted to be sold, including prohibitions on an individual under 18 years of age (i) being admitted into any consumer fireworks retail sales facility unless accompanied by a parent, guardian, or responsible adult or (ii) working in any consumer fireworks retail sales facility. The measure prohibits a person from, among other acts, (a) selling consumer fireworks within the Commonwealth unless he is a permittee or an employee or agent of a permittee; (b) selling consumer fireworks from a place other than a permanent consumer fireworks retail sales facility; (c) selling consumer fireworks to an individual who appears to be under the influence of alcohol or drugs; (d) knowingly selling or otherwise furnishing consumer fireworks to an individual under 18 years of age; (e) purchasing, using, or possessing consumer fireworks if the individual is under 18 years of age; or (f) selling or storing fireworks that are not consumer fireworks as defined in a standard established by the American Pyrotechnics Association. Certain violations are punishable as a Class 1 misdemeanor. A person violating restrictions on the hours during which, or places where, consumer fireworks may be used is subject to a civil penalty not to exceed \$150 per violation.

### **SB 1497 Status- Signed into Law by the Governor**

**No position-**

*Chief patron:* Carrico

**Manufactured home; definition.** Excludes a park model recreation vehicle from the definition of "manufactured home" and defines a park model recreational vehicle as a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

**SB 1515 Status- Died in Senate committee, the committee will send a letter to the Disability Commission to study the issue.**

**No position-** This is a bill from a VA Beach activist that has been trying to get VA Beach to require retrofit of accessible door hardware.

*Chief patron:* Wagner

**Existing buildings; manual entry door hardware.** Authorizes a locality to require property owners by ordinance to install manual entry door hardware in any building located in its jurisdiction where such fitting is affordable and readily achievable. The bill excludes historic buildings.

**SB 1578 Status- Signed into Law by the Governor**

**No position-**

*Chief patron:* Norment

**Short-term rental of property.** Authorizes a locality to adopt an ordinance requiring the registration of persons offering property for short-term rental. The bill defines "short-term rental" as the provision of a room or space suitable for sleeping or lodging for less than 30 consecutive days. Persons and entities already licensed related to the rental or management of property by the Board of Health, the Real Estate Board, or a locality would not be required to register. The bill authorizes localities to impose fees and penalties on persons who violate the registry ordinance or who offer short-term rentals that have multiple violations of state or federal laws or ordinances, including those related to alcoholic beverage control. The bill amends the Alcoholic Beverage Control (ABC) Act to clarify that certain property rented on a short-term basis is considered a bed and breakfast establishment for purposes of ABC licensing and that the exception from ABC licensing for serving alcoholic beverages to guests in a residence does not apply if the guest is a short-term lessee of the residence.

**SB 1579 Status- Incorporated into SB1578**

**No position-**

*Chief patron:* Stanley

**Short-term rental of property.** Affirms the rights of localities to regulate the short-term rental of property, defined as the provision of space suitable for sleeping or lodging for fewer than 30 days. If a locality allows short-term rentals, the locality shall require that the person offering property for rental notify adjacent landowners in writing, obtain local permission to offer the property for rental, and carry a minimum of \$500,000 of commercial premises liability insurance. If a locality prohibits short-term rentals, any person or entity, including an online hosting platform, that advertises the availability of a short-term rental in the locality shall be subject to a \$10,000 fine per violation.