

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 533**

4 (By Senators Snyder, Unger, McCabe and Miller)

5 \_\_\_\_\_  
6 [Originating in the Committee on Government Organization;  
7 reported February 23, 2011.]

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9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §7-20-7a, relating to  
12 impact fees; legislative findings; definitions; requiring  
13 counties to have an affordable housing component in the  
14 county's impact fees ordinance; requiring a scale for impact  
15 fees to assure affordable housing; and requiring a vote by the  
16 county commission to increase or decrease impact fees.

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

18 That the Code of West Virginia, 1931, as amended, be amended  
19 by adding thereto a new section, designated §7-20-7a, to read as  
20 follows:

21 **ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.**

22 **§7-20-7a. Impact fees for affordable housing.**

23 (a) *Legislative findings.* -- The Legislature finds that:

24 (1) There is a lack of affordable housing in counties that  
25 impose impact fees because the cost of the fees along with the

1 economic conditions in those counties has resulted in low and  
2 moderate income persons, persons on fixed incomes, the elderly and  
3 persons with special needs, not being able to obtain safe, decent  
4 and affordable housing;

5 (2) A lack of affordable housing affects the ability of a  
6 community to develop and maintain strong and stable economies, and  
7 impairs the health, stability and self-esteem of individuals and  
8 families; and

9 (3) Financing affordable housing particularly in high growth  
10 counties is becoming increasingly difficult.

11 For these reasons, it is in the public interest to encourage  
12 counties that have imposed impact fees and those considering the  
13 imposition of impact fees to fairly assess impact fees so as not to  
14 limit safe, decent and affordable housing.

15 (b) *Definitions.* The definitions used in this section include  
16 those set out in section three of this article, and the following:

17 (1) "Apartment" means a building containing multiple  
18 residential rental units.

19 (2) "Condominium" means a common interest community in which  
20 portions of the real estate are designated for separate ownership  
21 and the remainder of the real estate is designated for common  
22 ownership solely by the owners of those portions. A common  
23 interest community is not a condominium unless the undivided  
24 interest in the common elements are vested in the unit owners.

25 (3) "Manufactured home" has the same meaning as the term is  
26 defined in section two, article nine, chapter twenty-one of this

1 code which meets the National Manufactured Housing Construction and  
2 Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), effective  
3 on June 15, 1976, and the federal manufactured home construction  
4 and safety standards and regulations promulgated by the secretary  
5 of the United States department of housing and urban development.

6 (4) "Mobile home" means a transportable structure that is  
7 wholly, or in substantial part, made, fabricated, formed or  
8 assembled in manufacturing facilities for installation or assembly  
9 and installation on a building site and designed for long-term  
10 residential use and built prior to enactment of the federal  
11 manufactured housing construction and safety standards institute  
12 (ANSI) -- A119.1 standards for mobile homes.

13 (5) "Senior housing unit" means a dwelling for persons of a  
14 certain age and includes a legal requirement that no persons under  
15 a certain age may reside in the dwelling.

16 (6) "Single dwelling residential housing" means a detached  
17 house in which a person or persons live as a place of residence and  
18 includes manufactured homes.

19 (7) "Town house" means a type of dwelling unit normally having  
20 two, but sometimes three, stories usually connected to a similar  
21 structure by a common wall and commonly sharing and owning in  
22 common the surrounding grounds.

23 (c) *Affordable housing component to county impact fees*  
24 *ordinance.* -- After January 1, 2012, a county that imposes impact  
25 fees shall enact an affordable housing component to the county's  
26 impact fees ordinance that includes:

1 (1) A process, that is similar to the process used by the  
2 county assessor for property valuation, to determine the market  
3 value of the dwelling at the time of application for the building  
4 permit and impact fees; and

5 (2) A scale for impact fees as set out in subsection (d) of  
6 this section.

7 (d) *Impact fees.* -- The scale for impact fees is as follows:

8 (1) *Mobile homes* -- The impact fees for the setting of a  
9 mobile home shall be twenty percent of the normal impact fees or  
10 three thousand dollars, whichever is more.

11 (2) *Condominiums and Apartments* -- The impact fees for  
12 condominiums and apartments shall be based on the market value of  
13 the condominium or apartment. The impact fees shall be calculated  
14 as follows:

15 (A) For condominiums and apartments valued at forty-one  
16 percent up to one hundred percent of the average market value for  
17 single dwelling residential housing in the county as determined by  
18 the most recent single dwelling residential housing index created  
19 in section two-b, article one, chapter eleven of this code, the  
20 impact fees shall be one hundred percent of the normal impact fees;  
21 and

22 (B) For condominiums and apartments valued at forty percent  
23 down to twenty percent of the average market value for single  
24 dwelling residential housing in the county as determined by the  
25 most recent single dwelling residential housing index created in  
26 section two-b, article one, chapter eleven of this code, the impact

1 fees shall be based on a lineal scale of the normal impact fees or  
2 three thousand dollars, whichever is more.

3       (3) *Town houses* -- The impact fees for town houses shall be  
4 based on the market value of the town house. The impact fees shall  
5 be calculated as follows:

6       (A) For town houses valued at fifty-one percent up to one  
7 hundred percent of the average market value for single dwelling  
8 residential housing in the county as determined by the most recent  
9 single dwelling residential housing index created in section two-b,  
10 article one, chapter eleven of this code, the impact fees shall be  
11 one hundred percent of the normal impact fees; and

12       (B) For town houses valued at fifty percent down to twenty  
13 percent of the average market value for single dwelling residential  
14 housing in the county as determined by the most recent single  
15 dwelling residential housing index created in section two-b,  
16 article one, chapter eleven of this code, the impact fees shall be  
17 based on a lineal scale of the normal impact fees or three thousand  
18 dollars, whichever is more.

19       (4) *Single dwelling residential housing* -- The impact fees for  
20 single dwelling residential housing shall be based on the market  
21 value of the single dwelling residential house. The impact fees  
22 shall be calculated as follows:

23       (A) For single dwelling residential housing valued at sixty-  
24 one percent up to one hundred percent of the average market value  
25 for single dwelling residential housing in the county as determined  
26 by the most recent single dwelling residential housing index

1 created in section two-b, article one, chapter eleven of this code,  
2 the impact fees shall be one hundred percent of the normal impact  
3 fees; and

4 (B) For single dwelling residential housing valued at sixty  
5 percent down to twenty percent of the average market value for  
6 single dwelling residential housing in the county as determined by  
7 the most recent single dwelling residential housing index created  
8 in section two-b, article one, chapter eleven of this code, the  
9 impact fees shall be based on a lineal scale of the normal impact  
10 fees or three thousand dollars, whichever is more.

11 (5) *Senior housing units.* -- The school impact fee shall not  
12 apply.

13 (e) *Increasing impact fees.* -- The county commission shall  
14 approve, by a majority vote, any increase or decrease in impact  
15 fees.