

1 **H. B. 2232**

2
3 (By Delegate Doyle)

4 [Introduced January 12, 2011; referred to the
5 Committee on Energy, Industry and Labor, Economic
6 Development and Small Business then Finance.]

**FISCAL
NOTE**

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10 A BILL to amend and reenact §8A-7-10 of the Code of West Virginia,
11 1931, as amended, relating to planning and zoning; removing
12 exemption from certain provisions for mining and manufacturing
13 activities and uses.

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

15 That §8A-7-10 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 7. ZONING ORDINANCE.**

18 **§8A-7-10. Effect of enacted zoning ordinance.**

19 (a) After enactment of a zoning ordinance by a municipality or
20 county, all subsequent land development must be done in accordance
21 with the provisions of the zoning ordinance.

22 (b) All zoning ordinances, and all amendments, supplements and
23 changes thereto, legally adopted under any prior enabling acts, and

1 all actions taken under the authority of any such ordinances, are
2 hereby validated and continued in effect until amended or repealed
3 by action of the governing body of the municipality or the county
4 taken under authority of this article. These ordinances ~~shall~~ have
5 the same effect as though previously adopted as a comprehensive
6 plan of land use or parts thereof.

7 (c) Land, buildings or structures in use when a zoning
8 ordinance is enacted can continue the same use and such use cannot
9 be prohibited by the zoning ordinance so long as the use of the
10 land, buildings or structures is maintained, and no zoning
11 ordinance may prohibit alterations or additions to or replacement
12 of buildings or structures owned by any farm, industry or
13 manufacturer, or the use of land presently owned by any farm,
14 industry or manufacturer but not used for agricultural, industrial
15 or manufacturing purposes, or the use or acquisition of additional
16 land which may be required for the protection, continuing
17 development or expansion of any agricultural, industrial or
18 manufacturing operation of any present or future satellite
19 agricultural, industrial or manufacturing use. A zoning ordinance
20 may provide for the enlargement or extension of a nonconforming
21 use, or the change from one nonconforming use to another.

22 (d) If a use of a property that does not conform to the zoning
23 ordinance has ceased and the property has been vacant for one year,
24 abandonment will be presumed unless the owner of the property can

1 show that the property has not been abandoned: *Provided*, That
2 neither the absence of natural resources extraction or harvesting
3 nor the absence of any particular agricultural, industrial or
4 manufacturing process may be construed as abandonment of the use.
5 If the property is shown to be abandoned, then any future use of
6 the land, buildings or structures must conform with the provisions
7 of the zoning ordinance regulating the use where the land,
8 buildings or structures are located, unless the property is a duly
9 designated historic landmark, historic site or historic district.

10 (e) Nothing in this chapter authorizes an ordinance, rule ~~or~~
11 ~~regulation~~ preventing, outside of urban areas, the complete use of
12 natural resources by the owner.

13 (f) The exemption from any zoning ordinance or ordinances does
14 not apply to a nonenergy producing mining operation in any county
15 which, upon the effective date of this section, is a growth county,
16 as defined by section three, article twenty, chapter seven of this
17 code and where the county commission of that county has adopted a
18 zoning ordinance regardless of whether the zoning ordinance remains
19 in effect.

NOTE: The purpose of this bill is to remove the zoning exemption regarding existing uses for mining and manufacturing activities.

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