

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 671

By Senator Rucker

[Introduced March 4, 2025; referred
to the Committee on Economic Development; and
then to the Committee on Government Organization]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §8A-13-1, §8A-13-2, §8A-13-3, §8A-13-4, §8A-13-5, and §8A-13-6, relating to establishing the By-Right Housing Development Act to streamline the approval process for development when that proposed development meets all the rules for such development in a given community.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. BY-RIGHT HOUSING DEVELOPMENT ACT.

§8A-13-1. Purpose.

The purpose of this Act is to promote the development of housing by streamlining the approval process for by-right development, including single- family homes, multifamily housing units, and accessory dwelling units (ADUs). By facilitating the construction of additional housing units, this Act aims to address statewide housing shortages and promote affordability.

§8A-13-2. Definitions.

For the purposes of this Act:

(a) "By-Right Development" refers to the approval of proposed housing projects as a matter of right if they comply with established land use regulations, without the need for discretionary review or approval.

(b) "Single-family homes" means a dwelling either detached or semidetached, arranged, intended, or designed to be occupied by a single family.

(c) "Multifamily Housing Unit" refers to a residential building containing two or more housing units, such as apartment buildings, condominiums, or townhouses.

(d) "Accessory Dwelling Unit (ADU)" means a secondary housing unit that is subordinate to the primary dwelling unit on the same lot and may include a separate kitchen, bathroom, and entrance.

§8A-13-3. By-right housing development.

All proposed housing developments, including ADUs and multifamily housing units, that

2 meet the criteria outlined in the zoning code and land use regulations shall be approved by-right,
3 without the need for discretionary review or approval by planning commissions, zoning boards, or
4 other regulatory bodies.

§8A-13-4. By-right housing development.

1 Regulatory authorities shall monitor compliance with approved by-right housing
2 developments to ensure adherence to applicable regulations and standards.

3 Non-compliance with by-right approvals may result in enforcement actions, such as fines,
4 penalties, or project modifications to bring the development into compliance.

§8A-13-5. Restrictive covenants or condominium associations or homeowners' association regulations.

1 Nothing in this act shall be construed to invalidate or limit the legality, enforceability, or
2 effect of restrictive covenants or Condominium Association or Homeowners' Association (HOA)
3 regulations. Courts shall recognize and enforce such covenants and Condominium Association or
4 HOA regulations in accordance with applicable laws.

§8A-13-6. Appeal process for denied permit applications.

1 The court shall review the decision of the permitting authority de nova. The inquiry in such
2 a case shall extend to the questions whether the permitting authority has proceeded without, or in
3 excess of, jurisdiction; whether there was a fair process; and whether there was any abuse of
4 discretion.

5 Abuse of discretion is established if the court determines that the permitting authority's
6 findings are not supported by clear and convincing evidence in the light of the whole record.

7 If the court overturns the denial, it may remand to the permitting authority or direct the
8 permitting authority to grant the permit.

9 The court retains authority to exercise equitable authority where appropriate and shall
10 award the successful applicant attorney fees and expenses. In no circumstances will attorney fees
11 or expenses be awarded to the government or a third party challenging a permit.

NOTE: The purpose of this bill is to create a By-Right Development Act, which would establish a by-right housing development act to streamline the approval process for development when that proposed development meets all the rules for such development in a given community.

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