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WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 3142

(By Delegates Proudfoot, Amores, Douglas,  
Manuel, Compton and Fahey)



Passed February 11, 2002

In Effect Ninety Days from Passage

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FOR

## H. B. 3142

(BY DELEGATES PROUDFOOT, AMORES, DOUGLAS,  
MANUEL, COMPTON AND FAHEY)

[Passed February 11, 2002; in effect ninety days from passage.]

**AN ACT** to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by adding thereto a new section, designated section three-gg; and to amend and reenact section five, article twelve, chapter eight of said code, all relating to authorizing counties and municipalities to require visible posting of addresses for factory-built homes in a factory-built home rental community with at least ten factory-built homes situated on the premises of the community; and providing that the county or municipality may assign a numeric designation for an address if none exists for a factory-built home.

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

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding

thereto a new section, designated section three-gg; and that section five, article twelve, chapter eight of said code be amended and reenacted to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

**§7-1-3gg. Authority to require posting of commercial and residential addresses within municipal boundaries.**

1 In addition to all other powers now conferred by law upon  
2 county commissions, the commissions are hereby authorized to  
3 require owners, residents or occupants of factory-built homes  
4 situated in a factory-built home rental community with at least  
5 ten factory-built homes to visibly post the specific numeric  
6 portion of the address of each factory-built home on the  
7 immediate premises of the factory-built home of sufficient size  
8 to be visible from the adjoining street: *Provided*, That if no  
9 numeric or other specific designation of an address exists for a  
10 factory-built home subject to the authorization granted by this  
11 section, the commission has the authority to provide a numeric  
12 or other specific designation of an address for the factory-built  
13 home and require that it be posted in accordance with the  
14 authority otherwise granted by this section.

15 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED  
RELATIONS OF MUNICIPALITIES, GOVERNING  
BODIES AND MUNICIPAL OFFICERS AND EMPLOY-  
EES; SUITS AGAINST MUNICIPALITIES.**

**§8-12-5. General powers of every municipality and the governing  
body thereof.**

1 In addition to the powers and authority granted by: (i) The  
2 constitution of this state; (ii) other provisions of this chapter;

3 (iii) other general law; and (iv) any charter, and to the extent  
4 not inconsistent or in conflict with any of the foregoing except  
5 special legislative charters, every municipality and the govern-  
6 ing body thereof shall have plenary power and authority therein  
7 by ordinance or resolution, as the case may require, and by  
8 appropriate action based thereon:

9 (1) To lay off, establish, construct, open, alter, curb, recurb,  
10 pave or repave and keep in good repair, or vacate, discontinue  
11 and close, streets, avenues, roads, alleys, ways, sidewalks,  
12 drains and gutters, for the use of the public, and to improve and  
13 light the same, and have them kept free from obstructions on or  
14 over them which have not been authorized pursuant to the  
15 succeeding provisions of this subdivision; and, subject to such  
16 terms and conditions as the governing body shall prescribe, to  
17 permit, without in any way limiting the power and authority  
18 granted by the provisions of article sixteen of this chapter, any  
19 person to construct and maintain a passageway, building or  
20 other structure overhanging or crossing the airspace above a  
21 public street, avenue, road, alley, way, sidewalk or crosswalk,  
22 but before any permission for any person to construct and  
23 maintain a passageway, building or other structure overhanging  
24 or crossing any airspace is granted, a public hearing thereon  
25 shall be held by the governing body after publication of a notice  
26 of the date, time, place and purpose of the public hearing has  
27 been published as a Class I legal advertisement in compliance  
28 with the provisions of article three, chapter fifty-nine of this  
29 code and the publication area for the publication shall be the  
30 municipality: *Provided*, That any permit so granted shall  
31 automatically cease and terminate in the event of abandonment  
32 and nonuse thereof for the purposes intended for a period of  
33 ninety days, and all rights therein or thereto shall revert to the  
34 municipality for its use and benefit;

35 (2) To provide for the opening and excavation of streets,  
36 avenues, roads, alleys, ways, sidewalks, crosswalks and public

37 places belonging to the municipality and regulate the conditions  
38 under which any such opening may be made;

39 (3) To prevent by proper penalties the throwing, depositing  
40 or permitting to remain on any street, avenue, road, alley, way,  
41 sidewalk, square or other public place any glass, scrap iron,  
42 nails, tacks, wire, other litter or any offensive matter or any-  
43 thing likely to injure the feet of individuals or animals or the  
44 tires of vehicles;

45 (4) To regulate the use of streets, avenues, roads, alleys,  
46 ways, sidewalks, crosswalks and public places belonging to the  
47 municipality, including the naming or renaming thereof, and to  
48 consult with local postal authorities, the division of highways  
49 and the directors of county emergency communications centers  
50 to assure uniform, nonduplicative addressing on a permanent  
51 basis;

52 (5) To regulate the width of streets, avenues and roads, and,  
53 subject to the provisions of article eighteen of this chapter, to  
54 order the sidewalks, footways and crosswalks to be paved,  
55 repaved, curbed or recurbed and kept in good order, free and  
56 clean, by the owners or occupants thereof or of the real property  
57 next adjacent thereto;

58 (6) To establish, construct, alter, operate and maintain, or  
59 discontinue, bridges, tunnels and ferries and approaches thereto;

60 (7) To provide for the construction and maintenance of  
61 water drains, the drainage of swamps or marshlands and  
62 drainage systems;

63 (8) To provide for the construction, maintenance and  
64 covering over of watercourses;

65 (9) To control and administer the waterfront and waterways  
66 of the municipality and to acquire, establish, construct, operate  
67 and maintain and regulate flood control works, wharves and  
68 public landings, warehouses and all adjuncts and facilities for  
69 navigation and commerce and the utilization of the waterfront  
70 and waterways and adjacent property;

71 (10) To prohibit the accumulation and require the disposal  
72 of garbage, refuse, debris, wastes, ashes, trash and other similar  
73 accumulations whether on private or public property: *Provided,*  
74 *That,* in the event the municipality annexes an area which has  
75 been receiving solid waste collection services from a certifi-  
76 cated solid waste motor carrier, the municipality and the solid  
77 waste motor carrier may negotiate an agreement for continua-  
78 tion of the private solid waste motor carrier services for a  
79 period of time, not to exceed three years, during which time the  
80 certificated solid waste motor carrier may continue to provide  
81 exclusive solid waste collection services in the annexed  
82 territory;

83 (11) To construct, establish, acquire, equip, maintain and  
84 operate incinerator plants and equipment and all other facilities  
85 for the efficient removal and destruction of garbage, refuse,  
86 wastes, ashes, trash and other similar matters;

87 (12) To regulate or prohibit the purchase or sale of articles  
88 intended for human use or consumption which are unfit for use  
89 or consumption, or which may be contaminated or otherwise  
90 unsanitary;

91 (13) To prevent injury or annoyance to the public or  
92 individuals from anything dangerous, offensive or unwhole-  
93 some;

94 (14) To regulate the keeping of gunpowder and other  
95 combustibles;

96 (15) To make regulations guarding against danger or  
97 damage by fire;

98 (16) To arrest, convict and punish any individual for  
99 carrying about his or her person any revolver or other pistol,  
100 dirk, bowie knife, razor, slingshot, billy, metallic or other false  
101 knuckles or any other dangerous or other deadly weapon of like  
102 kind or character;

103 (17) To arrest, convict and punish any person for importing,  
104 printing, publishing, selling or distributing any pornographic  
105 publications;

106 (18) To arrest, convict and punish any person for keeping  
107 a house of ill fame, or for letting to another person any house or  
108 other building for the purpose of being used or kept as a house  
109 of ill fame, or for knowingly permitting any house owned by  
110 him or her or under his or her control to be kept or used as a  
111 house of ill fame, or for loafing, boarding or loitering in a house  
112 of ill fame, or frequenting same;

113 (19) To prevent and suppress conduct and practices which  
114 are immoral, disorderly, lewd, obscene and indecent;

115 (20) To prevent the illegal sale of intoxicating liquors,  
116 drinks, mixtures and preparations;

117 (21) To arrest, convict and punish any individual for  
118 driving or operating a motor vehicle while intoxicated or under  
119 the influence of liquor, drugs or narcotics;

120 (22) To arrest, convict and punish any person for gambling  
121 or keeping any gaming tables, commonly called "A, B, C," or  
122 "E, O," table or faro bank or keno table, or table of like kind,  
123 under any denomination, whether the gaming table be played  
124 with cards, dice or otherwise, or any person who shall be a  
125 partner or concerned in interest, in keeping or exhibiting the

126 table or bank, or keeping or maintaining any gaming house or  
127 place, or betting or gambling for money or anything of value;

128 (23) To provide for the elimination of hazards to public  
129 health and safety and to abate or cause to be abated anything  
130 which in the opinion of a majority of the governing body is a  
131 public nuisance;

132 (24) To license, or for good cause to refuse to license in a  
133 particular case, or in its discretion to prohibit in all cases, the  
134 operation of pool and billiard rooms and the maintaining for  
135 hire of pool and billiard tables notwithstanding the general law  
136 as to state licenses for any such business and the provisions of  
137 section four, article thirteen of this chapter; and when the  
138 municipality, in the exercise of its discretion, refuses to grant a  
139 license to operate a pool or billiard room, mandamus may not  
140 lie to compel the municipality to grant the license unless it shall  
141 clearly appear that the refusal of the municipality to grant a  
142 license is discriminatory or arbitrary; and in the event that the  
143 municipality determines to license any business, the municipal-  
144 ity has plenary power and authority and it shall be the duty of  
145 its governing body to make and enforce reasonable ordinances  
146 regulating the licensing and operation of the businesses;

147 (25) To protect places of divine worship and to preserve  
148 peace and order in and about the premises where held;

149 (26) To regulate or prohibit the keeping of animals or fowls  
150 and to provide for the impounding, sale or destruction of  
151 animals or fowls kept contrary to law or found running at large;

152 (27) To arrest, convict and punish any person for cruelly,  
153 unnecessarily or needlessly beating, torturing, mutilating,  
154 killing, or overloading or overdriving or willfully depriving of  
155 necessary sustenance any domestic animal;

156 (28) To provide for the regular building of houses or other  
157 structures, for the making of division fences by the owners of  
158 adjacent premises and for the drainage of lots by proper drains  
159 and ditches;

160 (29) To provide for the protection and conservation of  
161 shade or ornamental trees, whether on public or private prop-  
162 erty, and for the removal of trees or limbs of trees in a danger-  
163 ous condition;

164 (30) To prohibit with or without zoning the location of  
165 occupied house trailers or mobile homes in certain residential  
166 areas;

167 (31) To regulate the location and placing of signs, bill-  
168 boards, posters and similar advertising;

169 (32) To erect, establish, construct, acquire, improve,  
170 maintain and operate a gas system, a waterworks system, an  
171 electric system or sewer system and sewage treatment and  
172 disposal system, or any combination of the foregoing (subject  
173 to all of the pertinent provisions of articles nineteen and twenty  
174 of this chapter and particularly to the limitations or qualifica-  
175 tions on the right of eminent domain set forth in articles  
176 nineteen and twenty), within or without the corporate limits of  
177 the municipality, except that the municipality may not erect any  
178 system partly without the corporate limits of the municipality  
179 to serve persons already obtaining service from an existing  
180 system of the character proposed and where the system is by the  
181 municipality erected, or has heretofore been so erected, partly  
182 within and partly without the corporate limits of the municipal-  
183 ity, the municipality has the right to lay and collect charges for  
184 service rendered to those served within and those served  
185 without the corporate limits of the municipality and to prevent  
186 injury to the system or the pollution of the water thereof and its

187 maintenance in a healthful condition for public use within the  
188 corporate limits of the municipality;

189 (33) To acquire watersheds, water and riparian rights, plant  
190 sites, rights-of-way and any and all other property and appurte-  
191 nances necessary, appropriate, useful, convenient or incidental  
192 to any system, waterworks or sewage treatment and disposal  
193 works, as aforesaid, subject to all of the pertinent provisions of  
194 articles nineteen and twenty of this chapter;

195 (34) To establish, construct, acquire, maintain and operate  
196 and regulate markets and prescribe the time of holding the  
197 same;

198 (35) To regulate and provide for the weighing of articles  
199 sold or for sale;

200 (36) To establish, construct, acquire, maintain and operate  
201 public buildings, municipal buildings or city halls, auditoriums,  
202 arenas, jails, juvenile detention centers or homes, motor vehicle  
203 parking lots or any other public works;

204 (37) To establish, construct, acquire, provide, equip,  
205 maintain and operate recreational parks, playgrounds and other  
206 recreational facilities for public use and in this connection also  
207 to proceed in accordance with the provisions of article two,  
208 chapter ten of this code;

209 (38) To establish, construct, acquire, maintain and operate  
210 a public library or museum or both for public use;

211 (39) To provide for the appointment and financial support  
212 of a library board in accordance with the provisions of article  
213 one, chapter ten of this code;

214 (40) To establish and maintain a public health unit in  
215 accordance with the provisions of section two, article two,

216 chapter sixteen of this code, which unit shall exercise its powers  
217 and perform its duties subject to the supervision and control of  
218 the West Virginia board of health and state bureau for public  
219 health;

220 (41) To establish, construct, acquire, maintain and operate  
221 hospitals, sanitarium and dispensaries;

222 (42) To acquire, by purchase, condemnation or otherwise,  
223 land within or near the corporate limits of the municipality for  
224 providing and maintaining proper places for the burial of the  
225 dead and to maintain and operate the same and regulate  
226 interments therein upon terms and conditions as to price and  
227 otherwise as may be determined by the governing body and, in  
228 order to carry into effect the authority, the governing body may  
229 acquire any cemetery or cemeteries already established;

230 (43) To exercise general police jurisdiction over any  
231 territory without the corporate limits owned by the municipality  
232 or over which it has a right-of-way;

233 (44) To protect and promote the public morals, safety,  
234 health, welfare and good order;

235 (45) To adopt rules for the transaction of business and the  
236 government and regulation of its governing body;

237 (46) Except as otherwise provided, to require and take  
238 bonds from any officers, when considered necessary, payable  
239 to the municipality, in its corporate name, with such sureties  
240 and in a penalty as the governing body may see fit, conditioned  
241 upon the faithful discharge of their duties;

242 (47) To require and take from the employees and contrac-  
243 tors such bonds in a penalty, with such sureties and with such  
244 conditions, as the governing body may see fit;

245 (48) To investigate and inquire into all matters of concern  
246 to the municipality or its inhabitants;

247 (49) To establish, construct, require, maintain and operate  
248 such instrumentalities, other than free public schools, for the  
249 instruction, enlightenment, improvement, entertainment,  
250 recreation and welfare of the municipality's inhabitants as the  
251 governing body may consider necessary or appropriate for the  
252 public interest;

253 (50) To create, maintain and operate a system for the  
254 enumeration, identification and registration, or either, of the  
255 inhabitants of the municipality and visitors thereto, or the  
256 classes thereof as may be considered advisable;

257 (51) To require owners, residents or occupants of factory-  
258 built homes situated in a factory-built rental home community  
259 with at least ten factory-built homes, to visibly post the specific  
260 numeric portion of the address of each factory-built home on  
261 the immediate premises of the factory-built home of sufficient  
262 size to be visible from the adjoining street: *Provided*, That in  
263 the event no numeric or other specific designation of an address  
264 exists for a factory-built home subject to the authorization  
265 granted by this subdivision, the municipality has the authority  
266 to provide a numeric or other specific designation of an address  
267 for the factory-built home and require that it be posted in  
268 accordance with the authority otherwise granted by this section.

269 (52) To appropriate and expend not exceeding twenty-five  
270 cents per capita per annum for advertising the municipality and  
271 the entertainment of visitors;

272 (53) To conduct programs to improve community relations  
273 and public relations generally and to expend municipal revenue  
274 for such purposes;

275 (54) To reimburse applicants for employment by the  
276 municipality for travel and other reasonable and necessary  
277 expenses actually incurred by the applicants in traveling to and  
278 from the municipality to be interviewed;

279 (55) To provide revenue for the municipality and appropri-  
280 ate the same to its expenses;

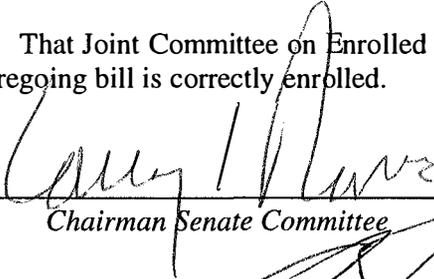
281 (56) To create and maintain an employee benefits fund  
282 which may not exceed one tenth of one percent of the annual  
283 payroll budget for general employee benefits and which is set  
284 up for the purpose of stimulating and encouraging employees  
285 to develop and implement cost-saving ideas and programs and  
286 to expend moneys from the fund for these purposes;

287 (57) To enter into reciprocal agreements with governmental  
288 subdivisions or agencies of any state sharing a common border  
289 for the protection of people and property from fire and for  
290 emergency medical services and for the reciprocal use of  
291 equipment and personnel for these purposes; and

292 (58) To provide penalties for the offenses and violations of  
293 law mentioned in this section, subject to the provisions of  
294 section one, article eleven of this chapter, and such penalties  
295 may not exceed any penalties provided in this chapter and  
296 chapter sixty-one of this code for like offenses and violations.

13 [Enr. Com. Sub. for H. B. 3142

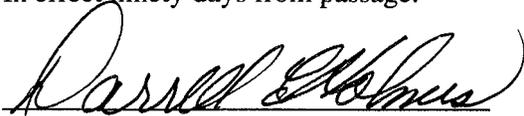
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

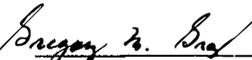
  
\_\_\_\_\_  
Chairman Senate Committee

  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

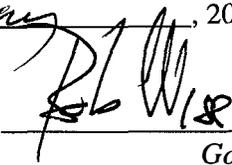
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 19<sup>th</sup>  
day of February, 2002.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 2/4/02

Time 3:55 pm