

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 26

BY SENATOR MAYNARD

[Introduced January 10, 2018; Referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend and reenact §15-5-4c of the Code of West Virginia, 1931, as amended, relating
 2 to emergency services; and authorizing the West Virginia Disaster Recovery Board to
 3 intervene to restore access to private property, real estate or other premises when the
 4 access is destroyed as the direct result of damage from flooding or other natural or man-
 5 made causes.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY
 MANAGEMENT.**

§15-5-4c. Powers and duties of the West Virginia disaster recovery board.

1 The board is hereby granted, has and may exercise all powers necessary or appropriate
 2 to carry out and effectuate the purposes set forth in §15-5-4b of this code. The authority has the
 3 power:

4 (1) To accept appropriations, gifts, grants, bequests and devises from any source, public
 5 or private, for deposit into the recovery fund, and to use or dispose of the same to provide
 6 assistance to any person, political subdivision or local organization for emergency services
 7 responding to or recovering from a disaster, or otherwise involved in disaster recovery activities;

8 (2) To make and execute contracts, leases, releases and other instruments necessary or
 9 convenient for the exercise of its power;

10 (3) To make, and from time to time, amend and repeal bylaws for the governance of its
 11 activities not inconsistent with the provisions of this article;

12 (4) To sue and be sued;

13 (5) To acquire, hold and dispose of real and personal property;

14 (6) To enter into agreements or other transactions with any federal or state agency,
 15 political subdivision or person: Provided, That in situations that involve loss to any person, as
 16 defined in §15-5-2 of this code, as the direct result of damage from flooding or other natural or

17 man-made causes on private property, real estate or other premises that prevents any person
18 from engaging in employment, private enterprise, providing essential business or personal
19 activities and community facilities or essential goods or services, including being denied access
20 to the private property, the board may take such action as is necessary to restore access to the
21 private property, real estate or other premises. The board may intervene to restore that access,
22 when to delay action obtaining access would increase the losses described in this subdivision,
23 when the owner of the private property, real estate or other premises is unable to, or refuses to
24 restore that access. This includes the board providing for the construction of any temporary or
25 permanent structure that is used to gain access to the private property, real estate or other
26 premises. The board may take any action against the owner of the private property, real estate or
27 other premises to recover the costs of construction including perfecting a lien against the owner,
28 according to law, for these costs;

29 (7) To provide for the deposit of any funds or assets of the West Virginia disaster relief
30 recovery trust fund with the state board of investments for investment;

31 (8) To procure insurance against any loss in connection with its property in such amounts,
32 and from such insurers, as may be necessary or desirable;

33 (9) To use the recovery trust fund to pay the costs incurred by any state department or
34 agency for the purpose of obtaining property appraisals and other certifications necessary to
35 justify the involvement of the federal emergency management agency and to allow its
36 determination of a presidentially declared disaster;

37 (10) To establish, or assist in the establishment of, temporary housing and residential
38 housing by, with or for political subdivisions declared to be in a disaster area by the federal
39 emergency management agency or other agency or instrumentality of the United States or by the
40 Governor of this state;

41 (11) To enter into purchase, lease, or other arrangements with an agency of the United
42 States or this state for temporary housing or residential housing units to be occupied by disaster

43 victims and make such units available to any political subdivision or persons;

44 (12) To assist political subdivisions, local organizations for emergency services and
45 nonprofit corporations in acquiring sites necessary for temporary housing or residential housing
46 for disaster victims and in otherwise preparing the sites to receive and use temporary housing or
47 residential housing units, including payment of transportation charges, by advancing or lending
48 funds available to the board from the recovery fund;

49 (13) To make grants and provide technical services to assist in the purchase or other
50 acquisition, planning, processing, design, construction, or rehabilitation, improvement or
51 operation of temporary housing or residential housing: *Provided*, That no such grant or other
52 financial assistance shall be provided except upon a written finding by the board that such
53 assistance and the manner in which it will be provided constitute a disaster recovery activity;

54 (14) To make or participate in the making of insured or uninsured construction and
55 permanent loans or grants for temporary housing or residential housing, community facilities and
56 essential business activities: *Provided*, That no such loan or grant shall be made except upon a
57 written finding by the board that the loan or grant and the manner in which it will be provided
58 constitute a disaster recovery activity and that the loan or grant is not otherwise available, wholly
59 or in part, from a private or public lender upon reasonably equivalent terms and conditions; and

60 (15) Do all acts necessary and proper to carry out the powers granted to the board under
61 this article.

NOTE: The purpose of this bill is to authorize the West Virginia disaster recovery board to intervene to restore access to private property, real estate or other premises, when the access is destroyed as the direct result of damage from flooding or other natural or man-made causes.

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