

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **ENROLLED**

## **House Bill 3089**

BY DELEGATES G. WARD, ANDERSON, RILEY, J. KELLY,  
PAYNTER, QUEEN, L. PACK, HAYNES, KIMBLE, FERRELL  
AND HOLSTEIN

[Passed April 10, 2021; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new section, designated §15-5-30, all relating to  
3 homeland security and emergency management; defining terms; and providing that  
4 employees of public utilities, cable television operators, telecommunications carriers, and  
5 publicly or privately owned water and sewer systems shall be considered essential  
6 workers to ensure that these services can continue to operate or be restored during a  
7 state of emergency or state of preparedness.

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

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

**§15-5-2. Definitions.**

1 As used in this article:

2 “Board” means the West Virginia Disaster Recovery Board created by this article;

3 “Code” means the Code of West Virginia, 1931, as amended;

4 “Community facilities” means a specific work, or improvement within this state or a specific  
5 item of equipment or tangible personal property owned or operated by any political subdivision or  
6 nonprofit corporation and used within this state to provide any essential service to the general  
7 public;

8 “Critical infrastructure” includes any systems and assets, whether physical or virtual, so  
9 vital to the state that the incapacity or destruction of such systems and assets would have a  
10 debilitating impact on security, state economic security, state public health or safety, or any  
11 combination of those matters.

12 “Disaster” means the occurrence or imminent threat of widespread or severe damage,  
13 injury, or loss of life or property resulting from any natural or terrorist or man-made cause,  
14 including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil

15 spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation  
16 or other public calamity requiring emergency action;

17 “Disaster recovery activities” means activities undertaken prior to, during or following a  
18 disaster to provide, or to participate in the provision of, critical infrastructure, emergency services,  
19 temporary housing, residential housing, essential business activities, and community facilities;

20 “Emergency services” means the preparation for and the carrying out of all emergency  
21 functions, other than functions for which military forces are primarily responsible, to protect,  
22 respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and  
23 damage resulting from disasters or other event caused by flooding, terrorism, enemy attack,  
24 sabotage, or other natural or other man-made causes. These functions include, without limitation,  
25 critical infrastructure services, firefighting services, police services, medical and health services,  
26 communications, emergency telecommunications, radiological, chemical, and other special  
27 weapons defense, evacuation of persons from stricken areas, emergency welfare services,  
28 emergency transportation, existing or properly assigned functions of plant protection, temporary  
29 restoration of public utility services and other functions related to the health, safety, and welfare  
30 of the citizens of this state, together with all other activities necessary or incidental to the  
31 preparation for and carrying out of these functions. Disaster includes the imminent threat of  
32 disaster as well as its occurrence and any power or authority exercisable on account of a disaster  
33 that may be exercised during the period when there is an imminent threat;

34 “Essential business activities” means a specific work or improvement within this state or a  
35 specific item of equipment or tangible personal property used within this state by any person to  
36 provide any essential goods or critical infrastructure services determined by the authority to be  
37 necessary for continued operations during a disaster, state of emergency, or state of  
38 preparedness, and for recovery from a disaster;

39 “Essential workers” means employees or contractors that fall under the definition of  
40 essential business activities during a disaster, state of emergency, or state of preparedness.

41           “Local organization for emergency services” means an organization created in accordance  
42 with the provisions of this article by state or local authority to perform local emergency services  
43 function;

44           “Mobile support unit” means an organization for emergency services created in  
45 accordance with the provisions of this article by state or local authority to be dispatched by the  
46 Governor to supplement local organizations for emergency services in a stricken area;

47           “Person” means any individual, corporation, voluntary organization or entity, partnership,  
48 firm, or other association, organization, or entity organized or existing under the laws of this or  
49 any other state or country;

50           “Political subdivision” means any county or municipal corporation in this state;

51           “Recovery fund” means the West Virginia Disaster Recovery Trust Fund created by this  
52 article;

53           “Residential housing” means a specific work or improvement within this state undertaken  
54 primarily to provide dwelling accommodations, including the acquisition, construction or  
55 rehabilitation of land, buildings and improvements thereto, for residential housing, including, but  
56 not limited to, facilities for temporary housing and emergency housing, and any other nonhousing  
57 facilities that are incidental or appurtenant thereto;

58           “Secretary” means the Secretary of the West Virginia Department of Military Affairs and  
59 Public Safety; and

60           “Temporary housing” means a specific work or improvement within this state undertaken  
61 primarily to provide dwelling accommodations, including the acquisition, construction or  
62 rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or  
63 housing for victims of a disaster and such other nonhousing facilities that are incidental or  
64 appurtenant thereto.

**§15-5-30. State of emergency; state of preparedness; essential workers.**

1           (a) During a state of emergency or state of preparedness, set forth by the Governor,  
2 employees of public utilities, cable television operators, telecommunications carriers, and publicly

3 or privately owned water and sewer systems shall be considered essential workers to ensure that  
4 these services can continue to operate or be restored.

5 (b) Contractors, vendors, and suppliers of public utilities, cable television operators,  
6 telecommunications carriers, and publicly or privately owned water and sewer systems of the  
7 state shall be considered essential workers to aid the utilities and telecommunications services in  
8 continuation of services to its customers.

9 (c) The provisions of subsections (a) and (b) of this section apply only and specifically for  
10 the purpose of ensuring that public utilities, cable television operators, telecommunications  
11 carriers, and publicly or privately owned water and sewer systems can continue to operate or be  
12 restored and may not be construed or interpreted in any way to have any relevance or meaning  
13 beyond this specific purpose.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

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*Governor*