

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2033

By Delegate Dean

[Introduced January 11, 2023; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §7-28-1 and §7-28-2; and to amend said code by adding thereto a new article,
3 designated §8-20B-1, all relating to unsafe real property; providing a process by which
4 county commissions and municipalities may compel the cleanup of hazardous real
5 property conditions; directing each assessor to identify obviously dilapidated, unsafe, or
6 defective condition that renders it unfit for the intended use of the property or the structures
7 upon it; providing that assessors staff receive training; directing the Division of Emergency
8 Management establish a training course; providing a power to assert a lien if a real
9 property owner fails to comply with a county commission's or municipality's hazardous
10 condition resolution; providing notice, hearing, and an appeals process regarding unsafe
11 condition determinations made; providing a process by which local governing bodies may
12 compel the cleanup of hazardous real property conditions; providing a power to assert a
13 lien if a real property owner fails to comply with a local governing body's hazardous
14 condition resolution; and providing a hearing appeals process on unsafe condition
15 determinations made by local governing bodies.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 28. POWERS AND DUTIES OF THE COUNTY COMMISSION AND ASSESSOR RELATING TO DILAPIDATED REAL PROPERTY.

§7-28-1. Assessor's duty to identify dilapidated, unsafe, or defective properties; training of staff.

1 (a) As part of the county assessor's assessment of properties within the county, the
2 assessor shall make note of, and identify, every property that is in an obviously dilapidated,
3 unsafe, or defective condition that renders it unfit for the intended use of the property or the
4 structures upon it. The assessor shall annually report all properties so identified to the county

5 enforcement agency established under §7-1-3ff of this code for inspection by that agency and
6 appropriate legal action under that code section or pursuant to §7-28-2 of the code.

7 (b) Employees of county assessors, who are responsible for conducting field assessments
8 of property, shall attend and complete a program of training, organized and provided through the
9 Division of Emergency Management, for identification of conditions, and evidence of conditions,
10 that render a property dilapidated, unsafe, or defective.

§7-28-2. Power of county commission to compel removal or cleanup of hazardous real
property conditions.

1 (a) Whenever any building or structure is ruined, damaged and dilapidated, or any premise
2 is covered with ruins, rubbish, wreckage, or debris, the county commission of which the county in
3 which the property is located may, by resolution, find that the ruined, damaged, and dilapidated
4 building, structure or premise is a hazard to the public comfort, health, peace, or safety. They may
5 then require removal of the building, structure, ruins, rubbish, wreckage, or debris.

6 (b) A copy of the resolution shall be served:

7 (1) Personally, to the owner of record with the county assessor, by the county sheriff.

8 (2) If the owner cannot be served within the county, a copy of the resolution shall be posted
9 on the building, structure, or premise, noting the date of posting on the first page. A copy of the
10 resolution shall also be mailed by certified mail to the last known address of the owner.

11 (c) Within 15 days or receipt of personal service or service by mail and posting, the owner
12 of the building, structure, or premise shall commence removing the building, structure, ruin,
13 rubbish, wreckage, or debris. If the owner objects to the resolution, the owner may file a written
14 objection with the county commission asking for a hearing before the county commission.

15 (d) If a written objection is filed as required in subsection (c) of this section, the county
16 commission shall:

17 (1) Schedule a hearing on its resolution and the objection and notify the owner of the
18 hearing date by mail;

19 (2) Consider all evidence for and against the removal resolution at the hearing; and

20 (3) Determine if its resolution should be enforced or rescinded.

21 (e) Any person aggrieved by the determination of the county commission may appeal to
22 the circuit court by:

23 (1) Giving notice of appeal to the county commission within 10 days following the
24 determination made by the county commission; and

25 (2) Filing a petition in the circuit court within 30 days after the determination made by the
26 county commission. The circuit court shall hear the matter and enter judgment in accordance with
27 its findings.

28 (f) The county commission may remove the building, structure, ruins, rubbish, wreckage,
29 or debris at the cost and expense of the owner if the owner fails to commence removing the
30 building, structure, ruins, rubbish, wreckage, or debris:

31 (1) Within 15 days of being served a copy of the resolution; or

32 (2) Within 10 days after a hearing by the governing body which determined that the
33 resolution shall be enforced; or

34 (3) Within 10 days after the circuit court enters judgment sustaining the determination of
35 the county commission.

36 (g) The reasonable cost of the removal shall constitute a lien against the building,
37 structure, ruin, rubbish, wreckage, or debris so removed and against the lot or parcel of land from
38 which it was removed and shall be filed with the county clerk.

39 (h) Any person or firm removing any condemned building, structure, wreckage, rubbish or
40 debris at the instruction of the county commission shall leave the premises from which the material
41 has been removed in a clean, level, and safe condition, suitable for further occupancy or
42 construction and with all excavations filled.

CHAPTER 8. MUNICIPAL CORPORATIONS.

**ARTICLE 20B. POWER OF MUNICIPALITY REGARDING DILAPIDATED REAL
PROPERTY.**

**§8-20B-1. Power of municipality to compel removal or cleanup of hazardous real property
conditions.**

1 (a) As used in this section:

2 "Municipality" means any municipality, as defined by §8-1-2 of this code, or any local
3 consolidated local government, as defined in §7A-1-3 of this code.

4 "Governing body" means the body charged with the responsibility of enacting laws and
5 determining public policy of the municipality, as defined by §8-1-2 of this code, or consolidated
6 local government, as defined by §7A-1-3 of this code.

7 (b) Whenever any building or structure is ruined, damaged and dilapidated, or any premise
8 is covered with ruins, rubbish, wreckage, or debris the governing body of the municipality of which
9 the property is located may, by resolution, find that the ruined, damaged and dilapidated building,
10 structure or premise is a hazard to the public comfort, health, peace, or safety. They may then
11 require removal of the building, structure, ruins, rubbish, wreckage, or debris.

12 (c) A copy of the resolution shall be served:

13 (1) Personally, to the owner of record with the county assessor, by constable or county
14 sheriff.

15 (2) If the owner cannot be served within the county, a copy of the resolution shall be posted
16 on the building, structure, or premise, noting the date of posting on the first page. A copy of the
17 resolution shall also be mailed by certified mail to the last known address of the owner.

18 (d) Within 15 days or receipt of personal service or service by mail, the owner of the
19 building, structure, or premise shall commence removing the building, structure, ruin, rubbish,
20 wreckage or debris. If the owner objects to the resolution the owner may file a written objection
21 with the governing body asking for a hearing before the governing body.

22 (e) If a written objection is filed as required in subsection (c) of this section, the governing
23 body shall:

24 (1) Schedule a date for a hearing on its resolution and the objection, notifying the owner of
25 such date by mail;

26 (2) Consider all evidence for and against the removal resolution at the hearing; and

27 (3) Determine if its resolution should be enforced or rescinded.

28 (f) Any person aggrieved by the determination of the governing body may appeal to the
29 circuit court by:

30 (1) Giving notice of appeal to the governing body within 10 days after the determination
31 made by the governing body; and

32 (2) Filing a petition in the circuit court within 30 days after the determination made by the
33 governing body. The circuit court shall hear the matter and enter judgment in accordance with its
34 findings.

35 (g) The governing body may remove the building, structure, ruins, rubbish, wreckage, or
36 debris at the cost and expense of the owner if the owner fails to commence removing the building,
37 structure, ruins, rubbish, wreckage or debris:

38 (1) Within 15 days of being served a copy of the resolution; or

39 (2) Within 10 days after a hearing by the governing body which determined that the
40 resolution shall be enforced; or

41 (3) Within 10 days after the circuit court enters judgment sustaining the determination of
42 the governing body.

43 (h) The reasonable cost of the removal shall constitute a lien against the building,
44 structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from
45 which it was removed and shall be filed with the county clerk.

46 (i) Any person or firm removing any condemned building, structure, wreckage, rubbish or
47 debris at the instruction of the governing body shall leave the premises from which the material

- 48 has been removed in a clean, level, and safe condition, suitable for further occupancy or
49 construction and with all excavations filled.

NOTE: The purpose of this bill is to create mechanisms for local governments to identify and address dilapidated and dangerous properties; requiring county assessor to conduct survey, and having staff receive training thereto; allowing empower county commissions and local governing bodies to compel removal of unsafe real property conditions; establishing process of designation, notice and procedural processes to allow removal of hazardous conditions; and allowing liens against properties for such costs.

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