

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2172**

By Delegates Mallow, Hillenbrand and Holstein

[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 to amend said code by adding thereto a new article, designated  
 3 §8-20B-1, all relating to unsafe real property conditions in counties or municipalities;  
 4 providing a process by which county commissions may compel the cleanup of hazardous  
 5 real property conditions; providing a power to assert a lien if a real property owner fails to  
 6 comply with a hazardous condition resolution by a county commission; providing a hearing  
 7 an appeals process regarding unsafe condition determinations made by county  
 8 commissions; providing a process by which local governing bodies may compel the  
 9 cleanup of hazardous real property conditions; providing a power to assert a lien if a real  
 10 property owner fails to comply with a local governing body's hazardous condition  
 11 resolution; and providing a hearing an appeals process on unsafe condition determinations  
 12 made by local governing bodies.

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

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

### **ARTICLE 28. POWER OF COUNTY COMMISSION REGARDING DILAPIDATED REAL PROPERTY.**

#### **§7-28-1. 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. The county  
 5 commission may then, by resolution, require removal of the building, structure, ruins, rubbish,  
 6 wreckage or debris.

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

8 (1) Personally, to the owner of record with the county clerk, by the county sheriff.

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

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

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

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

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

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

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

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

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

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

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

33 (2) Within 10 days after a hearing by the governing body which determined that the

34 resolution shall be enforced; or

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

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

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

11 may then require, by resolution, removal of the building, structure, ruins, rubbish, wreckage or  
12 debris.

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

14 (1) Personally, to the owner of record with the county clerk, by constable or county 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 (c) 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 (d) 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 (e) 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 (f) 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 (g) 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 (h) 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 empower county commissions and local governing bodies to compel removal of unsafe real property conditions.

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