

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 673

By Senator Rucker

[Introduced March 4, 2025; referred
to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §8A-13-1, §8A-13-2, §8A-13-3, §8A-13-4, §8A-13-5, §8A-13-6, §8A-13-7,
3 §8A-13-8, and §8A-13-9, relating to defining third-party challenges to development
4 permits; setting forth definitions; providing that properly issued development permits shall
5 be presumed valid and enforceable unless proven otherwise through a legal challenge;
6 defining what constitutes standing and for purposes of challenging a development permit;
7 limiting third-party challenges to development permits; defining the burden of proof to
8 challenge development permits; providing an expedited review process for resolving legal
9 challenges to development permits; requiring transparency and accountability for
10 authorities that issue development permits; providing a right to appeal for denials of
11 development permits due to a third-party challenge; and providing that third parties that
12 are unsuccessful in challenging a development permit shall pay the applicant's attorney's
13 fees and expenses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. FREEDOM TO DEVELOP ACT.

§8A-13-1. Definitions.

1 For the purposes of this Act:

2 (a) "Development Permit" means any authorization, license, or approval issued by the
3 relevant authority for the construction, alteration, or use of a commercial or residential property,
4 including but not limited to building permits, zoning permits, land use permits, plat approvals, lot
5 splits, infrastructure approvals, and environmental permits..

6 (b) "Relevant Authority" refers to the governmental entity or department responsible for
7 issuing development permits within the jurisdiction.

8 (c) "Third-Party" refers to any individual, organization, or entity other than the permit
9 applicant or relevant authority.

10 (d) "Common Law Nuisance" means a substantial and unreasonable interference with the

11 use and enjoyment of neighboring property, as defined by applicable common law principles.

12 (e) "Expedited Review Process" refers to a streamlined procedure established by the
13 governing body to resolve disputes related to development permits in a timely and efficient
14 manner, which may include accelerated court proceedings, mediation, or alternative dispute
15 resolution mechanisms.

§8A-13-2. Presumption of Validity.

1 Development permits issued by the relevant authority shall be presumed valid and
2 enforceable unless proven otherwise through a legal challenge.

§8A-13-3. Standing of Adjacent Property Owners.

1 Only property owners: (a) with property physically adjacent to the property that is the
2 subject of the development permit; and (b) that can demonstrate a concrete and particularized
3 harm to their physically adjacent property shall have standing to challenge development permits.

§8A-13-4. Limitation on Third-Party Challenges.

1 Notwithstanding any other provision of law, third-party challenges by those with standing
2 pursuant to §8A-13-3 to development permits shall be limited to instances where the proposed
3 development presents a clear and immediate threat to health, safety, or welfare, or otherwise
4 constitutes a common law nuisance.

§8A-13-5. Burden of Proof.

1 Parties challenging development permits pursuant to this Act bear the burden of proof by
2 clear and convincing evidence. Evidence may include expert testimony, scientific data, or other
3 relevant information substantiating the alleged harms, but may not include anecdotal evidence.

§8A-13-6. Expedited Review Process.

1 To minimize delays and uncertainty associated with legal challenges to development
2 permits, the relevant authority shall establish an expedited review process for resolving disputes
3 within 60 days.

§8A-13-7. Transparency and Accountability.

1 Relevant authorities responsible for issuing building permits shall maintain transparency
2 and accountability in their decision-making processes, providing clear rationale for permit
3 decisions.

§8A-13-8. Right to Appeal.

1 A property owner whose permit is denied because of a third-party challenge pursuant to
2 this Act may immediately appeal the decision to the relevant court of appeal.

§8A-13-9. Attorney's Fees.

1 If a third-party challenger to a permit loses the challenge, then the challenger shall pay the
2 permit-holder for all attorney's fees and expenses that the permit-holder incurs because of the
3 challenge. A permit holder shall not be liable for attorneys' fees or costs in favor of a third-party
4 challenger if the third-party challenger wins a challenge pursuant to this statute.

NOTE: The purpose of this bill is to define third-party challenges to development permits.

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