

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 805**

By Senators Rucker, Deeds, and Hart

[Reported March 26, 2025, from the Committee on  
Agriculture]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
2 designated §36-4-20, relating to promoting personal agriculture; defining terms; declaring  
3 policy; providing that a covenant, restriction, or condition imposed by a homeowners  
4 association that unreasonably restricts cultivation of personal gardens or ownership of  
5 chickens is void and unenforceable; providing for exceptions; and providing for limitations.

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

**ARTICLE**

**4.**

**COVENANTS.**

**§36-4-20. Personal agricultural covenants unenforceable; exceptions; limitations.**

1 (a) For the purposes of this section:

2 (1) "Chicken" means a hen, or adult female chicken, or a pullet, or young female chicken.

3 (2) "Homeowners association" has the meaning assigned by 26 U.S.C. § 528, and includes  
4 any unit owners' association organized under §36B-3-101 of this code.

5 (3) "Personal agriculture" means any use of residential real property whereby an individual  
6 cultivates edible plant crops or animals for personal use or donation, but does not include the  
7 cultivation of edible plant crops or animals grown for sale or other commercial purposes.

8 (4) "Plant crop" means any crop in its raw or natural state, which comes from a plant that  
9 will bear edible fruits, vegetables, herbs, or grains, but does not include any controlled substance  
10 included in Schedules I through V of §60A-2-201 et seq. of this code.

11 (b) The Legislature finds that it is an important public policy to encourage the sustainable  
12 use of residential property and the pursuit of personal agriculture, specifically including the  
13 cultivation of personal gardens and the ownership of certain types of poultry. Therefore, any  
14 covenant, restriction, or condition contained in any governing document of a homeowners  
15 association executed or recorded after the effective date of this section that unreasonably restricts  
16 the planting or installation of a personal garden, which includes plant crops in containers, or the  
17 ownership and enjoyment of no more than four chickens on any property owned and maintained  
18 by a homeowner shall be void and unenforceable, unless otherwise provided by state law or local

ordinance: Provided, That a homeowners association may, by vote of its members, remove from any governing document a covenant, restriction, or condition that unreasonably restricts the cultivation of a personal garden or the ownership of no more than four chickens.

(c) This section shall not apply to:

(1) Any provision of a governing document of a homeowners association that imposes reasonable restrictions on personal agriculture, which do not significantly increase the cost or decrease the efficiency of personal agriculture, including restrictions imposed for purposes of historical preservation, due to architectural significance, or because of religious or cultural importance to a given community; or

(2) Any communal areas or common structures managed by a homeowners association.

(d) Nothing in this section shall:

(1) Authorize an individual property owner subject to a homeowners association's governing document to own a rooster, or to have free-ranging chickens;

(2) Preclude the regulation of personal agriculture by state and local authorities, which may establish land use, health, and safety standards;

(3) Prohibit a homeowners association from imposing restrictions, rules, or regulations that require dead plant material and weeds, with the exception of straw, mulch, compost, and other organic materials intended to encourage vegetation and retention of moisture in the soil, to be regularly cleared from an individual property owner's property;

(4) Prohibit a homeowners association from restricting an individual property owner's use of herbicides, pesticides, fungicides, rodenticides, insecticides, or any synthetic chemical products commonly used in cultivating edible plant crops; or

(5) Prohibit a homeowners association from imposing restrictions, rules, or regulations that require an individual property owner who owns chickens to use chicken coops; that specify the size, type, or location of chicken coops to be used; or that mandate chicken coop setback requirements.

NOTE: The purpose of this bill is to promote personal agriculture by making unenforceable a homeowners association's covenant, restriction, or condition that unreasonably restricts the cultivation of personal gardens or the ownership of chickens. The bill defines terms, declares policy, and provides for exceptions and limitations.

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