

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4977

By Delegates Flanigan, Stephens, Roop, Mallow,
Rohrbach, Shamblin, Pritt, Phillips, Martin, Ferrell,
and Akers

[Originating in the Committee on Government
Organization; Reported on February 28, 2026]

1 A BILL to amend and reenact §8-12-16 of the Code of West Virginia, 1931, as amended, relating to
2 authorizing municipalities to adopt an ordinance to recover demolition costs as special tax
3 assessments.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED
RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL
OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

**§8-12-16. Ordinances regulating the repair, alteration, improvement, closing, demolition,
etc., of structures, dwellings, or buildings that are unsafe, unsanitary, dangerous, or
detrimental to the public safety or welfare; procedures.**

1 (a) For the purposes of this section:

2 (1) "Code enforcement agency" means either a code enforcement department as defined
3 by 87 CSR 7-2, as may be amended, or an enforcement agency as permitted by subsection (c) of
4 this section.

5 (2) "Code enforcement agency official" means any lawful agent of a code enforcement
6 agency.

7 (3) "Owner" or "landowner" means a person who individually or jointly with others:

8 (A) Has legal title to the property, with or without actual possession of the property;

9 (B) Has charge, care, or control of the property as owner or agent of the owner;

10 (C) Is an executor, administrator, trustee, or guardian of the estate of the owner;

11 (D) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

12 (E) May control or direct the management or disposition of the property.

13 (4) "Unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare" means:

14 (A) Any door, aisle, passageway, stairway, exit, or other means of egress that does not
15 conform to the approved building or fire code of the jurisdiction as related to the requirements for

16 existing buildings;

17 (B) The walking surface of any aisle, passageway, stairway, exit, or other means of egress
18 is so warped, worn loose, torn, or otherwise unsafe as to not provide safe and adequate means of
19 egress;

20 (C) Any portion of a dwelling, building, structure, or appurtenance that has been damaged
21 by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other
22 cause to an extent that it is likely to partially or completely collapse, or to become detached or
23 dislodged;

24 (D) Any portion of a structure or building, or any member, appurtenance, or ornamentation
25 on the exterior that is not of sufficient strength or stability, or is not so anchored, attached, or
26 fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the
27 original designed value;

28 (E) The dwelling, building, or structure, or part of the building or structure, because of
29 dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of
30 the ground necessary for the support, or for any other reason, is likely to partially or completely
31 collapse, or some portion of the foundation or underpinning of the dwelling, building or structure is
32 likely to fail or give way;

33 (F) The dwelling, building, or structure, or any portion, is clearly unsafe for its use;

34 (G) The dwelling, building, or structure is neglected, damaged, dilapidated, unsecured, or
35 abandoned so as to become an attractive nuisance to children, becomes a harbor for vagrants,
36 criminals, and criminal activity, or enables persons to resort to the dwelling, building, or structure
37 for committing a nuisance or an unlawful act;

38 (H) Any dwelling, building, or structure constructed, exists or is maintained in violation of
39 any specific requirement or prohibition applicable to any dwelling, building, or structure provided
40 by the approved building or fire code of the jurisdiction or of any law or ordinance that presents
41 either a substantial risk of fire, building collapse, or any other threat to life and safety;

42 (I) A dwelling, building, or structure, used or intended to be used for dwelling purposes,
43 because of inadequate maintenance, dilapidation, decay, contamination by any hazardous
44 substance or material, including, but not limited to, substance resulting from the illegal
45 manufacture of drugs, damage, faulty construction or arrangement, inadequate light, ventilation,
46 mechanical, or plumbing system, or otherwise, is determined by the code enforcement agency to
47 be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or
48 disease;

49 (J) Any dwelling, building, or structure, because of a lack of sufficient or proper fire
50 resistance-rated construction, fire protection systems, electrical system, fuel connections,
51 mechanical system, plumbing system, or other cause, is determined by the code official to be a
52 threat to life or health; or

53 (K) Any portion of a building that remains on a site after the demolition or destruction of the
54 building or structure, or whenever any building or structure is abandoned.

55 (b) Plenary power and authority are hereby conferred upon every municipality to adopt
56 ordinances regulating the repair, alteration, or improvement, or the vacating and closing or
57 removal or demolition, or any combination, of any structure, dwelling, or building, whether used for
58 human habitation or not, that is unsafe, unsanitary, dangerous, or detrimental to the public safety
59 or welfare.

60 (c) In formally adopting any ordinance under this section, the governing body shall
61 designate the enforcement agency, which shall consist of the code enforcement agency as
62 provided by the state building code and authorized by §29-3-5b and §8-12-13 of this code; or
63 municipal officials as may otherwise be authorized by this code; or municipal officials or agents as
64 authorized by rules promulgated by the State Fire Commission and approved by the Legislature;
65 or municipal officials or agents as may otherwise be authorized by the State Fire Commission.
66 Notwithstanding any provision of this code to the contrary, for the purposes of this section any
67 municipality that has not adopted the state building code may designate an enforcement agency

68 consisting of the mayor, the municipal engineer or building inspector, and one member at large, to
69 be selected by and to serve at the will and pleasure of the mayor, and the ranking health officer and
70 fire chief or their designees, who shall serve as ex officio members of the enforcement agency.

71 (d) Any ordinance adopted under the provisions of this section must provide fair and
72 equitable rules of procedure and any other procedures required by law or necessary and
73 appropriate to guide the code enforcement agency, or its officials, in the investigation of any
74 structure, dwelling, or building conditions, and in any corrective action taken by the code
75 enforcement agency.

76 (e) When a code enforcement agency official enters the premises of the property for
77 investigating or inspecting any structure, dwelling, or building, the investigation shall be performed
78 to minimize the inconvenience to the owner or persons in possession and shall be consistent with
79 the following:

80 (1) Except in exigent circumstances and as permitted by law, the enforcement agency shall
81 provide reasonable advance notice to the owner and request permission from the owner to enter
82 the property;

83 (2) If the owner cannot be located after reasonable inquiry by the code enforcement
84 agency as required by this section, or if the owner refuses entry, the code enforcement agency
85 may obtain an administrative search warrant from either the municipal court or the magistrate
86 court located in the jurisdiction of the municipality or county where the structure, dwelling, or
87 building is located. Before obtaining an administrative search warrant, a code enforcement agency
88 official is required to make a sworn statement and prima facie case showing that the code
89 enforcement agency was unable to gain access to the structure, dwelling, or building after
90 reasonable and good faith efforts, and that there is a legitimate and substantial safety concern
91 involving the structure, dwelling, or building that supports the requested entry;

92 (3) If granted by the court, and if the owner can be located, the code enforcement agency
93 shall provide the owner a copy of the administrative search warrant five days before entering the

94 property. If applicable, the code enforcement agency shall also provide the same notice to any
95 tenant or other person in possession of the structure, dwelling, or building; and

96 (4) Entry is for the sole purpose of inspection of the structure, dwelling, or building for
97 unsafe or unsanitary conditions and not for the purpose of criminal prosecution or gathering
98 evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary
99 condition of the structure, dwelling, or building.

100 (f) The governing body of every municipality has plenary power and authority to adopt an
101 ordinance providing for the vacating, closing, removal, or demolition of any dwelling, structure or
102 building by the municipality in the absence of owner agreement or court order: *Provided*, That the
103 ordinance requires the code enforcement agency to provide lawful notice to and undertake
104 reasonable efforts to seek agreement from the owner before taking any action permitted by this
105 section and shall comply with the requirements set forth in this subsection:

106 (1) Any ordinance adopted under this subsection applies only to dwellings, structures, or
107 buildings which meet the definition of unsafe, unsanitary, dangerous, or detrimental to the public
108 safety or welfare as set forth in:

109 (A) Paragraph (C), (E) or (H), subdivision (4), subsection (a) of this section; or

110 (B) Paragraph (F), (G), (I) or (K), subdivision (4), subsection (a) of this section: *Provided*,
111 That the dwelling, building, or structure is vacant, abandoned, or has been lawfully declared unfit
112 for human habitation; and the reasonable estimated cost of repair, rehabilitation, or corrective
113 action exceeds the fair market value of the dwelling, building, or structure.

114 (2) Any ordinance adopted under this subsection must provide for the following:

115 (A) The code enforcement agency shall produce a written notice containing the date of the
116 last inspection, the name of the inspector, a reasonable description of the unsafe, unsanitary,
117 dangerous, or detrimental conditions, the corrective measures required, the allotted time to correct
118 the substandard conditions and the allotted time the owner has to apply to the circuit court for a
119 temporary injunction or other similar relief restraining action by the enforcement agency.

120 (B) The notice shall be served upon the owner or landowner by conspicuously posting and
121 attaching a copy of the notice to the subject property, and by serving the notice on the owner or
122 landowner in the same manner as service of a complaint as set forth in subsection (j) of this
123 section.

124 (C) If the code enforcement agency cannot effect personal service on the owner, a code
125 enforcement agency official shall subscribe a written affidavit, to be maintained for a minimum of
126 two years, that demonstrates the structure, dwelling, or building falls within one of the categories
127 set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section and sets forth the
128 basis in reasonable detail, including documentation of same, and memorializes the code
129 enforcement agency official's efforts to contact or get permission for entry and any corrective
130 action from the owner; and the code enforcement agency shall publish notice of its intent to enter
131 the property for the purpose of demolition or correction, along with the address of the property, the
132 name of the owners and the date of the proposed action, as a Class II legal advertisement
133 consistent with the requirements of §59-3-2 of this code, the first of which shall run at least 30 days
134 before the date of the proposed action by the enforcement agency, and the last being no later than
135 20 days before the date of the proposed action by the enforcement agency.

136 (D) If there is no response to the notice by the owner or landowner in the time specified in
137 the notice, then the municipality may proceed in correction or demolition of the subject dwelling,
138 building, or structure.

139 (3) It is an absolute defense to any civil action by an owner, landowner, or tenant for
140 damages resulting from the closure, demolition, or other corrective action taken by a municipality
141 under this section: *Provided*, That the municipality acted in good faith, can demonstrate that the
142 structure, dwelling, or building falls within one of the categories set forth in paragraph (A) or (B),
143 subdivision (1), subsection (f) of this section, that the municipality followed the procedures set forth
144 in this subsection, and that the municipality had adopted the state building code at the time of the
145 closure, demolition, or other corrective action occurred.

146 (4) Any ordinance adopted under this subsection must also provide for notice to the owner
147 of the owner's right to apply to the circuit court for a temporary injunction or other similar relief
148 restraining correction or demolition by the enforcement agency. If the application is made by the
149 owner, a hearing shall be had within 20 days of the application, or as soon as reasonably possible.

150 (A) Continuances of the hearing provided for in this subdivision may be made for cause
151 only. If a continuance is granted upon request by the owner, the owner is required to pay into court,
152 in the form of a bond, any reasonable and necessary costs related to the property likely to be
153 incurred by the municipality during the continuance.

154 (B) At the conclusion of a hearing held under this subdivision, if the court finds that the
155 property is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, the court
156 shall make and enter an order granting the relief as requested by the municipality. The court may
157 disburse any moneys paid into court by the owner in accordance with this section.

158 (g)(1) The governing body of every municipality has plenary power and authority to adopt
159 an ordinance requiring the owner of any dwelling or building under determination of the State Fire
160 Marshal, as provided in §29-3-12 of this code, or under order of the code enforcement agency of
161 the municipality, to pay for the costs of repairing, altering, or improving, or of vacating and closing,
162 removing or demolishing any dwelling or building, and may file a lien against the real property in
163 question for an amount that reflects all costs incurred by the municipality for repairing, altering, or
164 improving, or of vacating and closing, removing, or demolishing any dwelling or building, or
165 structure. Any municipality that adopts an ordinance under this section may authorize the
166 municipal court to place a structure, dwelling, or building into receivership when the following
167 circumstances are present:

168 (A) The owner cannot be located after reasonable inquiry by the code enforcement agency
169 as required by this section or if the owner refuses entry;

170 (B) The code enforcement agency has obtained an administrative search warrant from
171 either the municipal court or the magistrate court located in the jurisdiction of the municipality or

172 county where the structure, dwelling, or building is located;

173 (C) Upon entry, the code enforcement agency has determined that the structure, dwelling,
174 or building is salvageable and does not require immediate demolition; and

175 (D) The code enforcement agency has proffered to the court that the structure, dwelling or
176 building will require demolition or presents a substantial threat to nearby structures, property, or
177 residents due to risk of fire, structural instability, or attractive nuisance if it is not repaired, altered,
178 or improved in the near future.

179 (2) If all of these circumstances are present, the municipal court may place the structure,
180 dwelling, or building into receivership with the municipality or another entity that is capable of
181 making the necessary repairs, alterations, and improvements to the structure, dwelling or building.
182 Any owner of the structure, dwelling, or building may petition the municipal court to terminate the
183 receivership at any time and, upon showing that the owner will either demolish the structure,
184 dwelling, or building or make the necessary repairs, alterations, and improvements to the
185 satisfaction of the code enforcement agency, the municipal court may terminate the receivership.

186 ~~(h) In addition to any lien authorized by this section, a municipality may, by ordinance,~~
187 ~~provide that the reasonable costs incurred for the repair, alteration, improvement, removal, or~~
188 ~~demolition of a building or structure pursuant to this section shall constitute a special assessment~~
189 ~~against the real property on which such costs were incurred. Prior to the imposition of any such~~
190 ~~special assessment, the owner of the property shall be provided notice of the amount to be~~
191 ~~assessed, consistent with the procedures provided in §8-18-1, et seq. of this code. Any special~~
192 ~~assessment imposed pursuant to this section may be certified by the municipality to the county~~
193 ~~sheriff or other appropriate tax official and shall be entered on the land books and collected in the~~
194 ~~same manner, with the same priority, interest, penalties, and enforcement remedies, as ad~~
195 ~~valorem real property taxes.~~

196 (h)(1) In addition to any lien otherwise authorized by this section, a municipality may, by
197 ordinance, provide that the reasonable and necessary costs incurred for the repair, alteration,

198 improvement, removal, vacating, closing, or demolition of a building or structure pursuant to this
199 section shall constitute a special assessment against the real property upon which the costs were
200 incurred, as a means of cost recovery for the abatement of unsafe or unlawful conditions.

201 (2) Prior to the imposition of any special assessment authorized by this subsection, the
202 municipality shall provide written notice to the owner of record of the real property.

203 (3) The notice required by this subsection shall include:

204 (A) A description of the real property sufficient for identification;

205 (B) A statement describing the repair, alteration, improvement, removal, vacating, closing,
206 or demolition that has been performed;

207 (C) A statement that the reasonable costs incurred by the municipality shall be assessed
208 against the property as a special assessment;

209 (D) The amount of the proposed assessment; and

210 (E) A statement advising the owner of the right to contest the proposed assessment and
211 the procedure and deadline for doing so.

212 (4) The notice shall be sent by certified mail, with return receipt requested, to the last
213 known address of the owner as shown on the land books, or by any other method reasonably
214 calculated to provide actual notice, and may also be provided by posting the notice on the
215 property.

216 (5) A notice issued pursuant to this section for the repair, alteration, improvement, removal,
217 vacating, closing, or demolition of a building or structure satisfies the notice requirements of this
218 subsection if the notice includes the information required by subdivision (3) of this subsection,
219 regardless of the title or caption of the notice.

220 (6) The owner shall be provided an opportunity to contest the proposed assessment before
221 a municipal judge or other municipal official with lawful authority to hear and determine violations
222 of municipal code as provided by ordinance. The determination of such official shall be binding on
223 the municipality for purposes of imposition.

224 (7) Upon completion of the work and consideration of any objections submitted within 30
225 days following notice, and provided that the owner has been given notice of the final assessment
226 amount prior to certification, the municipality or its official designee shall impose the special
227 assessment administratively. The municipality shall provide notice of the final assessment amount
228 to the owner. The assessment may then be certified to the county sheriff or other appropriate tax
229 official and shall be entered on the land books and collected in the same manner, with the same
230 priority, interest, penalties, and enforcement remedies, as ad valorem real property taxes.

231 (8) A municipality may, by ordinance, authorize the payment of a special assessment
232 imposed pursuant to this subsection in installments under general terms established by the
233 governing body. The municipality, or its official designee, shall have the authority to apply,
234 establish, and adjust installment schedules for individual assessments consistent with the terms of
235 the ordinance, and to take any administrative actions necessary to ensure collection of
236 installments.

237 (9) Special assessments imposed pursuant to this subsection are governed exclusively by
238 this section and are not subject to the provisions of § 8-18-1 et seq. of this code.

239 (i) Every municipality may also institute a civil action in circuit court against the landowner
240 or other responsible party to obtain an order allowing the municipality to take corrective action up
241 to and including demolition of any structure, dwelling or building that is unsafe, unsanitary,
242 dangerous, or detrimental to the public safety or welfare; and to recover all reasonable costs and
243 expenses incurred by the municipality with respect to the property and for reasonable attorney
244 fees and court costs incurred in the prosecution of the action:

245 (1) No fewer than 10 days before instituting a civil action as provided in this subsection, the
246 municipality shall send notice to the landowner by certified mail, return receipt requested, advising
247 the landowner of the governing body's intention to institute such action.

248 (2) The notice shall be sent to the most recent address of the landowner of record in the
249 office of the assessor of the county where the subject property is located and to any other address

250 for the landowner as may exist on record with the municipality. If, for any reason, the certified mail
251 is returned without evidence of proper receipt, the municipality shall resend the notices by first
252 class mail, postage prepaid, and shall also post notice on the front door or other conspicuous
253 location on the subject property.

254 (i) (j) To the extent not otherwise authorized by state law, all notices of violation or
255 correction for violations that do not fall within one of the categories set forth in paragraph (A) or (B),
256 subdivision (1), subsection (f) of this section issued by the enforcement agency of a municipality
257 that has adopted the state building code shall be served in accordance with the process set forth in
258 the state building code. All notices of violation or correction orders for violations that do not fall
259 within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this
260 section issued by a code enforcement agency of a municipality that has not adopted the state
261 building code shall be served in accordance with the law of this state concerning the service of
262 process in civil actions, except that personal service may be made by a code enforcement agency
263 official and the method of service effectuated by mail by the clerk of a court as permitted by Rule
264 4(d)(1)(D) of the West Virginia Rules of Civil Procedure is effectuated by mailing by a code
265 enforcement agency official and shall be posted in a conspicuous place on the property that is the
266 subject of the notice of violation or correction.

267 (j) (k) Any violation of an ordinance adopted under this section, may be prosecuted by the
268 municipality consistent with state and local laws. Unless otherwise authorized by state law,
269 prosecution of a violation shall be initiated by a complaint presented to and sworn or affirmed
270 before a municipal judge or other municipal official with lawful authority to hear and determine
271 violations of municipal code in the municipality where the offense is alleged to have occurred.
272 Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by a
273 code enforcement agency official or municipal attorney showing reason to have reliable
274 information and belief. If from the facts stated in the complaint the municipal judge or other
275 municipal official with lawful authority to hear and determine violations of municipal code finds

276 probable cause, the complaint becomes the charging instrument initiating a criminal proceeding. A
277 complaint lawfully authorized by this subsection along with a summons setting forth the date, time,
278 and place of appearance before a municipal judge or other municipal official with lawful authority to
279 hear and determine violations of municipal code shall be served in accordance with the law of the
280 State of West Virginia concerning the service of process in civil actions, except that personal
281 service of a summons and complaint may be made by a code enforcement agency official. If
282 service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil
283 Procedure and delivery of the summons and complaint is refused, the code enforcement agency
284 official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being
285 noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class
286 mailing is not returned as undeliverable by the U. S. Postal Service, service of the summons and
287 complaint is presumed to have been effectuated. Upon service of the summons and complaint
288 consistent with this subsection, the violation may be prosecuted consistent with state and local
289 law.

290 ~~(k)~~ (l) In addition to the authority granted by this section, a municipality may seek the aid of
291 a county commission by entering into a memorandum of understanding with the county
292 commission to destroy or demolish certain dilapidated structures within the municipality. In those
293 agreements, the parties may use the procedures outlined this code section or §7-1-3ff of this code.

NOTE: The purpose of this bill is to permit municipalities to adopt an ordinance to recover demolition costs as special tax assessments.

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