

HB 4156

FILED

2008 MAR 27 AM 11:06

OFFICE OF THE
SECRETARY OF STATE CD

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4156**

(By Delegates Morgan, Craig, Palumbo,
Klempa, Hutchins and Higgins)



Passed March 7, 2008

In Effect Ninety Days from Passage

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H. B. 4156

(BY DELEGATES MORGAN, CRAIG, PALUMBO,
KLEMPA, HUTCHINS AND HIGGINS)

[Passed March 7, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §8-12-16 of the Code of West Virginia, 1931, as amended, relating to authorizing municipalities to place a lien on property in an amount that reflects the costs incurred by the municipality for repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building on the property.

Be it enacted by the Legislature of West Virginia:

That §8-12-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**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, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

1 (a) Plenary power and authority are hereby conferred
2 upon every municipality to adopt ordinances regulating the
3 repair, alteration or improvement, or the vacating and closing
4 or removal or demolition, or any combination thereof, of any
5 dwellings or other buildings unfit for human habitation due
6 to dilapidation, defects increasing the hazard of fire,
7 accidents or other calamities, lack of ventilation, light or
8 sanitary facilities or any other conditions prevailing in any
9 dwelling or building, whether used for human habitation or
10 not, which would cause such dwellings or other buildings to
11 be unsafe, unsanitary, dangerous or detrimental to the public
12 safety or welfare.

13 (b) The governing body in formally adopting the
14 ordinances shall designate the enforcement agency, which
15 shall consist of the mayor, the municipal engineer or building
16 inspector and one member at large, to be selected by and to
17 serve at the will and pleasure of the mayor. The ranking
18 health officer and fire chief shall serve as ex officio members
19 of the enforcement agency.

20 (c) Any ordinance adopted pursuant to the provisions of
21 this section must provide fair and equitable rules of
22 procedure and any other standards deemed necessary to guide
23 the enforcement agency, or its agents, in the investigation of
24 dwelling or building conditions, and in conducting hearings:
25 *Provided*, That any entrance upon premises for the purpose
26 of making examinations is made in a manner as to cause the
27 least possible inconvenience to the persons in possession.

28 (d) The governing body of every municipality has plenary
29 power and authority to adopt an ordinance requiring the
30 owner or owners of any dwelling or building under

31 determination of the State Fire Marshal, as provided in
32 section twelve, article three, chapter twenty-nine of this code,
33 or under order of the enforcement agency of the municipality,
34 to pay for the costs of repairing, altering or improving, or of
35 vacating and closing, removing or demolishing any dwelling
36 or building.

37 (c) Every municipality:

38 (1) May file a lien against the real property in question
39 for an amount that reflects all costs incurred by the
40 municipality for repairing, altering or improving, or of
41 vacating and closing, removing or demolishing any dwelling
42 or building; and

43 (2) May institute a civil action in a court of competent
44 jurisdiction against the landowner or other responsible party
45 for all costs incurred by the municipality with respect to the
46 property and for reasonable attorney fees and court costs
47 incurred in the prosecution of the action.

48 (f) Not less than ten days prior to instituting a civil action
49 as provided for in this section, the governing body of the
50 municipality shall send notice to the landowner by certified
51 mail, return receipt requested, advising the landowner of the
52 governing body's intention to institute such action.

53 (g) The notice shall be sent to the most recent address of
54 the landowner of record in the office of the assessor of the
55 county where the subject property is located. If, for any
56 reason, such certified mail is returned without evidence of
57 proper receipt thereof, then in such event, the governing body
58 shall cause a Class III-0 legal advertisement to be published
59 in a newspaper of general circulation in the county wherein
60 the subject property is located and post notice on the front
61 door or other conspicuous location on the subject property.

62 (h) If any landowner desires to contest any demand
63 brought forth pursuant to this section, the landowner may
64 seek relief in a court of competent jurisdiction.

65 (i) All orders issued by the enforcement agency shall be
66 served in accordance with the law of this state concerning the
67 service of process in civil actions, and, be posted in a
68 conspicuous place on the premises affected by the complaint
69 or order: *Provided*, That no ordinance may be adopted
70 without providing for the right to apply to the circuit court for
71 a temporary injunction restraining the enforcement agency
72 pending final disposition of the cause.

73 (j) In the event such application is made, a hearing
74 thereon shall be had within twenty days, or as soon thereafter
75 as possible, and the court shall enter such final order or
76 decree as the law and justice may require.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

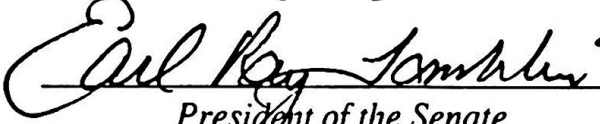
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

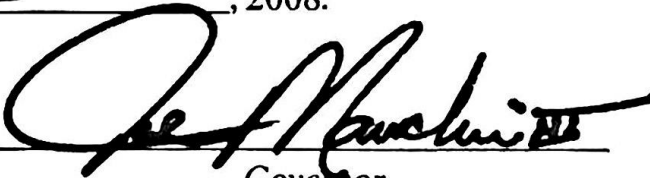


President of the Senate



Speaker of the House of Delegates

The within is approved this the 27th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2008

Time 9:30am