

H. B. 3185

(By Delegates Lawrence and Manchin)

[Introduced February 18, 2011; referred to the
Committee on Political Subdivisions then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §7-20-7a; and to
amend said code by adding thereto a new section, designated
§24-2-1k, all relating to preservation of affordable housing
in counties with county impact fees.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §7-20-7a; and that said
code be amended by adding thereto a new section, designated
§24-2-1k, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.

§7-20-7a. Reduced fees for affordable housing units.

(a) Legislative finding. -- The Legislature finds that there
is a lack of affordable housing in counties that imposed impact

1 fees and capital improvement fees because the cost of those fees
2 along with economic conditions in those counties has resulted in
3 low and moderate income persons, including, but not limited to,
4 those on fixed incomes such as elderly persons and persons with
5 special needs, being unable to obtain safe, decent and affordable
6 housing in those counties. A lack of affordable housing affects
7 the ability of communities to develop and maintain strong and
8 stable economies and impairs the health, stability and self-esteem
9 of individuals and families. The Legislature further finds that
10 financing affordable housing particularly in high growth counties
11 is becoming increasingly difficult. For these reasons, it is in
12 the public interest to encourage counties that have imposed impact
13 fees and capital improvement fees and those considering the
14 imposition of such fees to avoid having those fees unfairly
15 burdening affordable housing.

16 (b) Definitions. As used in this article:

17 (1) "Affordable housing" means a single-family detached
18 housing unit located in a county approved subdivision that has
19 above-ground living space that does not exceed one thousand eight
20 hundred square feet and a cost that does not exceed forty percent
21 of the average cost of a single-family residential house in the
22 county in which it is located, as determined by the annual study of
23 average cost of new single-family homes required by section two-b,
24 article one, chapter eleven of this code.

1 (2) "County approved subdivision" means a subdivision approved
2 by the County Planning Commission that has subdivision improvements
3 such as, for example, lighting, sidewalks and paved streets that
4 cost in excess of \$200,000.

5 (3) "Impact fee" or "capital improvement fee" means any fee
6 imposed pursuant to section seven of this article or collected
7 pursuant to section four of this article.

8 (c) *Impact and capital improvement fees on affordable housing*
9 *units.* -- Notwithstanding any provision of this article to the
10 contrary, a county commission or other body collecting an impact or
11 capital improvement fee on or after the effective date of this
12 section may not collect a fee for an affordable housing unit, as
13 defined in this section, that exceeds fifteen percent of the amount
14 that would otherwise be imposed on the developer, owner or renter
15 of the affordable housing unit in the absence of this subsection.

16 **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

17 **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

18 **§24-2-1k. Capacity improvement fees; affordable housing.**

19 (a) *Legislative finding.* -- The Legislature finds that there
20 is a lack of affordable housing in counties that imposed impact
21 fees and capital improvement fees because the cost of those fees
22 along with capacity improvement fees and economic conditions in
23 those counties has resulted in low and moderate income persons,
24 including, but not limited to, those on fixed incomes such as

1 elderly persons and persons with special needs, being unable to
2 obtain safe, decent and affordable housing in those counties. A
3 lack of affordable housing affects the ability of communities to
4 develop and maintain strong and stable economies and impairs the
5 health, stability and self-esteem of individuals and families. The
6 Legislature further finds that financing affordable housing
7 particularly in high-growth counties is becoming increasingly
8 difficult. For these reasons, it is in the public interest that
9 capacity improvement fees not unfairly burdening affordable
10 housing.

11 (b) Definitions. As used in this section:

12 (1) "Affordable housing" means a single-family detached
13 housing unit located in a county approved subdivision that has
14 above-ground living space that does not exceed one thousand eight
15 hundred square feet and a cost that does not exceed forty percent
16 of the average cost of a single-family residential house in the
17 county in which it is located, as determined by the annual study of
18 average cost of new single-family homes required by section two-b,
19 article one, chapter eleven of this code.

20 (2) "Capacity improvement fee" means any fee imposed by a
21 county, municipality, public utility or public service district on
22 customers to finance construction of, and operate, improvements to
23 the capacity of the electric, water, sewage or other public service
24 systems operated by the county, municipality, public utility or

1 public service district.

2 (3) "County approved subdivision" means a subdivision approved
3 by the County Planning Commission that has subdivision improvements
4 such as, for example, lighting, sidewalks and paved streets that
5 cost in excess of \$200,000.

6 (c) Capacity improvement fee on affordable housing units. --
7 Notwithstanding any provision of this article to the contrary, the
8 Public Service Commission may not approve collection of a capacity
9 improvement fee and no utility may collect a capacity improvement
10 fee for an affordable housing unit, as defined in this section,
11 located in a county that imposes a county impact fee pursuant to
12 article twenty, chapter seven of this code, when the capacity
13 improvement fee exceeds fifteen percent of the amount that would
14 otherwise be imposed on the developer, owner or renter of the
15 affordable housing unit in the absence of this subsection.

NOTE: The purpose of this bill is to allow county commissions to waive or reduce impact fees and capital improvement fees of affordable housing units in their county and to limit the capacity improvement fees that may be collected from developers, owners or renters of affordable housing in counties with impact fees.

§7-20-7a and §24-2-1k are new; therefore, both sections have been completely underscored.