

1 **§7-1-3v. Floodplain and mudslide area management; legislative**
2 **findings; power and authority; enforcement;**
3 **provisions cumulative.**

4 (a) The Legislature ~~hereby~~ finds and declares that it is
5 imperative that municipalities and counties in this state be fully
6 authorized and empowered to take all action necessary to comply
7 with the requirements of the National Flood Insurance Act of 1968
8 (Public Law 91-152), as amended by the Congress of the United
9 States through February 15, 1975; that municipalities presently are
10 vested with all statutory power and authority necessary in this
11 regard; and that the purpose of this section is to authorize and
12 empower the several counties of this state to comply with ~~such~~ the
13 requirements.

14 (b) As used in this section and section three-pp of this
15 article:

16 (1) "Act" means the National Flood Insurance Act of 1968
17 (Public Law 91-152), as amended by the Congress of the United
18 States through February 15, 1975; and

19 (2) "Coordinator" means the West Virginia State Coordinator of
20 the National Flood Insurance Program;

21 ~~(2)~~ (3) "Specified area or areas" means the area or areas
22 specified under ~~such~~ the act as a flood plain or mudslide area or
23 areas within which control over construction and improvements must

1 be exercised in order to comply with ~~such~~ the act.

2 (c) To the extent and only to the extent necessary to comply
3 with the eligibility requirements of and otherwise fully and in all
4 respects to comply with the requirements of ~~such~~ the act, and
5 subject to the provisions of section three-pp of this article, the
6 county commission of each county ~~is hereby authorized and empowered~~
7 ~~to~~ may: (i) Adopt, administer and enforce building codes for a
8 specified area or areas within ~~such~~ the county, which building
9 codes may establish different requirements for different specified
10 areas; (ii) require and issue building permits for all proposed
11 construction or other improvements in ~~such~~ the county: *Provided,*
12 That nothing contained in this subdivision (ii) ~~shall authorize~~
13 authorizes a county commission to refuse to issue a building permit
14 for any proposed construction or other improvement outside of a
15 specified area or areas within ~~such~~ the county; (iii) conduct
16 inspections of construction and other improvements in a specified
17 area or areas within ~~such~~ the county; and (iv) otherwise take ~~such~~
18 action and impose ~~such~~ requirements regarding land use and control
19 measures in a specified area or areas within ~~such~~ the county as
20 ~~shall be~~ necessary under ~~such~~ the act: *Provided,* That ~~no such a~~
21 building code adopted by a county commission ~~shall~~ may not apply
22 within nor may any authority hereinabove granted be exercised by a
23 county commission within the corporate limits of any municipality

1 which has taken appropriate action to comply with ~~such~~ the act,
2 unless and until ~~such~~ the municipality so provides by ordinance.
3 ~~Any such~~ A building code adopted by a county commission and any
4 other requirements imposed by a county commission under the
5 provisions of this subsection ~~(c)~~ may be enforced by injunctive
6 action in the circuit court of the county.

7 (d) The power and authority conferred upon county commissions
8 in this section is supplemental to and not in derogation of any
9 power and authority heretofore or hereafter conferred by law upon
10 county commissions.

11 **§7-1-3pp. Floodplain and mudslide area management; ordinance of**
12 **county commission subject to approval by State**
13 **Coordinator, National Flood Insurance Program;**
14 **establishment of permit fees.**

15 (a) After any required notice and public comment period, but
16 prior to final adoption of any building code or an amendment to any
17 existing building code, by a county commission, as authorized
18 pursuant to section three-v of this article, which establishes,
19 amends or alters criteria for permitting projects within a
20 specified area or areas, the county commission of the county shall
21 submit the proposed building code, or proposed amendment to an
22 existing building code, to the coordinator for review.

1 (b) The coordinator shall review any proposed building code,
2 or proposed amendment to an existing building code, that is
3 submitted by a county commission under this section, and shall
4 within thirty days from receipt, make a determination as to whether
5 the proposed building code or proposed amendment to an existing
6 building code is in compliance with the act. The coordinator
7 shall, in writing, notify the county commission who has submitted
8 the proposed new or amended building code of his or her
9 determination which shall include the basis for the determination.
10 The coordinator may consider factors as he or she considers
11 appropriate in making a determination under this section,
12 including, but not limited to, whether the proposed building code
13 or proposed amendment to an existing building code is technically
14 accurate, whether it provides that review of proposed projects
15 within a specified area or areas, is conducted by a licensed West
16 Virginia surveyor or engineer with technical experience which
17 qualifies the person to review the information submitted as part of
18 an application for a project and all other pertinent matters which
19 the coordinator considers appropriate in his or her determination.

20 (c) On or before July 1, 2013, the coordinator shall establish
21 a system of uniform permit fees to accompany a permit application
22 for projects within any specified area or areas of a county or
23 municipality which has enacted a building code pursuant to this

1 section or section three-v of this article, or for any building
2 codes proposed after the effective date of this section.

NOTE: The purpose of this bill is to require the State Coordinator of the National Flood Insurance Program to review proposed building codes, or amendments to an existing building code and establish a system of permit fees for applications for projects within any specified area or areas of a county or municipality which has enacted a building code.

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

§7-1-3pp is new; therefore, strike-through and underscoring have been omitted.