

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 412**

BY SENATOR TRUMP

[Introduced January 29, 2018; Referred  
to the Committee on Government Organization; and then  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §30-29-1 of said code, all relating to county litter control officers who  
 3 are trained and certified as law-enforcement officers to have the same authority as other  
 4 law-enforcement officers to enforce litter laws.

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

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

**§7-1-3ff. Authority of county commission to regulate unsafe or unsanitary structures and refuse on private land; authority to establish an enforcement agency; county litter control officers; procedure for complaints; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.**

1 (a) Plenary power and authority are hereby conferred upon every county commission to  
 2 adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or  
 3 removal or demolition, or any combination thereof, of any dwellings or other buildings, except for  
 4 buildings utilized for farm purposes on land actually being used for farming, unfit for human  
 5 habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities,  
 6 lack of ventilation, light or sanitary facilities, or any other conditions prevailing in any dwellings or  
 7 buildings, whether used for human habitation or not, which would cause the dwellings or other  
 8 buildings to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare,  
 9 whether the result of natural or man-made force or effect.

10 (b) Plenary power and authority are hereby conferred upon every county commission to  
 11 adopt ordinances regulating the removal and cleanup of any accumulation of refuse or debris,  
 12 overgrown vegetation, or toxic spillage or toxic seepage located on private lands which is  
 13 determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare,

14 whether the result of natural or man-made force or effect.

15 (c) The county commission, in formally adopting ordinances, shall designate an  
 16 enforcement agency which shall consist of the county engineer, or other technically qualified  
 17 county employee or consulting engineer, county health officer, or his or her designee, a fire chief  
 18 from a county fire company, the county litter control officer, if the commission chooses to hire one,  
 19 and two members at large selected by the county commission to serve two-year terms. The county  
 20 sheriff shall serve as an ex officio member of the enforcement agency and the county officer  
 21 charged with enforcing the orders of the county commission under this section.

22 (d) In addition to the powers and duties imposed by this section, county litter control  
 23 officers shall have authority to issue citations for open dumps, as prohibited by §22-15-10(a) of  
 24 this code, unlawful disposal of litter, as prohibited by §22-15A-4 of this code, and failure to provide  
 25 proof of proper disposal of solid waste, as prohibited by §22C-4-10(a) of this code, after  
 26 completing a training course offered by the West Virginia Department of Environmental  
 27 Protection: Provided, That any litter control officer who is trained and certified as a law-  
 28 enforcement officer and whose certification is active shall have the same authority as any other  
 29 law-enforcement officer to enforce all litter laws in this code. Nothing in this subsection  
 30 supercedes the authority or duty of the Department of Environmental Protection or other law-  
 31 enforcement officers to preserve law and order and enforce the litter control program.

## **CHAPTER 30. BOARDS AND OCCUPATIONS.**

### **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

#### **§30-29-1. Definitions.**

1 For the purposes of this article, unless a different meaning clearly appears in the context:

2 (1) "Approved law-enforcement training academy" means any training facility which is  
 3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief natural

5 resources police officer of the Division of Natural Resources; the sheriff of any West Virginia  
6 county; any administrative deputy appointed by the chief natural resources police officer of the  
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement  
8 agency;

9 (3) "County" means the 55 major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or  
11 above;

12 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's  
13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established  
14 as a state planning agency pursuant to §15-9-1 of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement  
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make  
17 arrests and enforce the laws of the state or any county or municipality thereof, other than parking  
18 ordinances, and includes those persons employed as campus police officers at state institutions  
19 of higher education in accordance with the provisions of §18B-4-5 of this code, and persons  
20 employed by the Public Service Commission as motor carrier inspectors and weight-enforcement  
21 officers charged with enforcing commercial motor vehicle safety and weight restriction laws  
22 although those institutions and agencies may not be considered law-enforcement agencies. The  
23 term also includes those persons employed as county litter control officers charged with enforcing  
24 litter laws: *Provided*, That those persons have been trained and certified as law-enforcement  
25 officers and that certification is currently active. The term also includes those persons employed  
26 as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code,  
27 although no resort area district may be considered a law-enforcement agency: *Provided, however,*  
28 That the subject rangers shall pay the tuition and costs of training. As used in this article, the term  
29 "law-enforcement officer" does not apply to the chief executive of any West Virginia law-  
30 enforcement agency or any watchman or special natural resources police officer;

31 (7) "Law-enforcement official" means the duly appointed chief administrator of a  
32 designated law-enforcement agency or a duly authorized designee;

33 (8) "Municipality" means any incorporated town or city whose boundaries lie within the  
34 geographic boundaries of the state;

35 (9) "Subcommittee" or "law-enforcement professional standards subcommittee" means  
36 the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created  
37 by §30-29-2 of this code; and

38 (10) "West Virginia law-enforcement agency" means any duly authorized state, county, or  
39 municipal organization employing one or more persons whose responsibility is the enforcement  
40 of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service  
41 Commission nor any state institution of higher education nor any resort area district is a law-  
42 enforcement agency.

NOTE: The purpose of this bill is to allow litter control officers who are trained and certified as law-enforcement officers and whose certification is active to have the same authority as any other law-enforcement officers to enforce all litter laws.

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