

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 3013

BY DELEGATES HAMRICK, BUTLER, BLAIR, GEARHEART,

QUEEN, MAYNARD, MILLER, C. AND STORCH

[Introduced March 14, 2017; Referred

to the Committee on Government Organization then

Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5-6-18; and to amend and reenact §5A-10-5 of said code, all relating to
 3 requiring an inspection or inspections of any building prior to purchase or major renovation
 4 by the state and requiring inspection results to be considered in a cost-benefit analysis.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §5-6-18; and that §5A-10-5 of said code be amended and reenacted, all to
 3 read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 6. STATE BUILDINGS.

§5-6-18. Inspection before purchase or renovation required.

1 (a) Notwithstanding any other provision of this code to the contrary, after July 1, 2017, a
 2 state entity with authority to purchase, lease or renovate real estate may not purchase or lease a
 3 building in the name of the state or enter into a contract for renovations of a building that are
 4 anticipated to exceed \$100,000, before first obtaining a report or reports from a structural
 5 engineering inspection of the building and other inspections necessary to:

6 (1) Evaluate the building’s foundation, basement, roof, heating, ventilating and air
 7 conditioning systems, plumbing, electrical and every other major component of the building; and

8 (2) Evaluate compliance with Americans with Disabilities Act requirements and assess the
 9 accessibility of the property in terms of location, parking facilities and other factors for the
 10 accommodation of the public.

11 (b) The state entity shall use the inspection report or reports in making a cost-benefit
12 analysis of the proposed purchase or renovation.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 10. REAL ESTATE DIVISION.

§5A-10-5. Selection of grounds, etc.; acquisition by contract or lease; long-term leases.

1 (a) The executive director has sole authority to select and to acquire by contract or lease,
2 in the name of the state, all grounds, buildings, office space or other space, the rental of which is
3 necessarily required by any spending unit, upon a certificate from the chief executive officer or
4 his or her designee of said spending unit that the grounds, buildings, office space or other space
5 requested is necessarily required for the proper function of said spending unit, that the spending
6 unit will be responsible for all rent and other necessary payments in connection with the contract
7 or lease and that satisfactory grounds, buildings, office space or other space is not available on
8 grounds and in buildings now owned or leased by the state: *Provided*, That any such contract or
9 lease of office space which provides that the landlord or owner of the office space be responsible
10 for providing for, or the contracting for, cleaning or janitorial services shall not also require the
11 owner or landlord of the premises to use any particular person, firm or company to provide the
12 cleaning or janitorial services.

13 (b) The executive director shall, before executing any rental contract or lease, determine
14 the fair rental value for the rental of the requested grounds, buildings, office space or other space,
15 in the condition in which they exist and shall contract for or lease said premises at a price not to
16 exceed the fair rental value thereof.

17 (c) The executive director may enter into long-term agreements for buildings, land and
18 space for periods longer than one fiscal year: *Provided*, That such long-term lease agreements
19 are not for periods in excess of forty years, except that the secretary may, in the case of the
20 Adjutant General's department, enter into lease agreements for a term of fifty years or a specific

21 term of more than fifty years so as to comply with federal regulatory requirements and shall
22 contain, in substance, all the following provisions:

23 (1) That the Department of Administration, as lessee, has the right to cancel the lease
24 without further obligation on the part of the lessee upon giving thirty days' written notice to the
25 lessor, such notice being given at least thirty days prior to the last day of the succeeding month;

26 (2) That the lease shall be considered canceled without further obligation on the part of
27 the lessee if the State Legislature or the federal government should fail to appropriate sufficient
28 funds therefor or should otherwise act to impair the lease or cause it to be canceled; and

29 (3) That the lease shall be considered renewed for each ensuing fiscal year during the
30 term of the lease unless it is canceled by the Department of Administration before the end of the
31 then current fiscal year.

32 (d) (1) The executive director may not purchase a building in the name of the state or enter
33 into a contract for renovations that are anticipated to exceed \$100,000, before first obtaining a
34 report or reports from a structural engineering inspection of the building and other inspections
35 necessary to:

36 (A) Evaluate the building's foundation, basement, roof, heating, ventilating and air
37 conditioning systems, plumbing, electrical and every other major component of the building; and

38 (B) Evaluate compliance with Americans with Disabilities Act requirements and assess the
39 accessibility of the property in terms of location, parking facilities and other factors for the
40 accommodation of the public.

41 (2) The executive director shall use the inspection report or reports in making a cost-
42 benefit analysis of the proposed purchase or renovation.

NOTE: The purpose of this bill is to require the Executive Director of the Real Estate Division of the Department of Administration and every state entity authorized to purchase, lease or renovate real estate to obtain a thorough inspection of a building before it is purchased by the state or renovated; and to require use of the inspection report in making a cost-benefit analysis of the proposed purchase or renovation.

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