

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 242

BY SENATOR SYPOLT

[Introduced January 12, 2022; referred
to the Committee on Agriculture and Rural
Development]

1 A BILL to amend and reenact §8A-7-10 of the Code of West Virginia, 1931, as amended, relating
2 to limiting the authority to prevent or limit an owner's complete use of natural resources or
3 real property for farm or agricultural operations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ZONING ORDINANCE.

§8A-7-10. Effect of enacted zoning ordinance.

1 (a) After enactment of a zoning ordinance by a municipality or county, all subsequent land
2 development ~~must~~ shall be done in accordance with the provisions of the zoning ordinance.

3 (b) All zoning ordinances, and all amendments, supplements and changes thereto, legally
4 adopted under any prior enabling acts, and all actions taken under the authority of any such
5 ordinances, are hereby validated and continued in effect until amended or repealed by action of
6 the governing body of the municipality or the county taken under authority of this article. These
7 ordinances shall have the same effect as though previously adopted as a comprehensive plan of
8 land use or parts thereof.

9 (c) Land, buildings or structures in use when a zoning ordinance is enacted ~~can~~ may
10 continue the same use and ~~such that~~ use ~~cannot~~ may not be prohibited by the zoning ordinance
11 so long as the use of the land, buildings or structures is maintained, and no zoning ordinance may
12 prohibit alterations or additions to or replacement of buildings or structures owned by any farm,
13 industry or manufacturer, or the use of land presently owned by any farm, industry or manufacturer
14 but not used for agricultural, industrial or manufacturing purposes, or the use or acquisition of
15 additional land which may be required for the protection, continuing development or expansion of
16 any agricultural, industrial or manufacturing operation of any present or future satellite agricultural,
17 industrial or manufacturing use. A zoning ordinance may provide for the enlargement or extension
18 of a nonconforming use, or the change from one nonconforming use to another.

19 (d) If a use of a property that does not conform to the zoning ordinance has ceased and
20 the property has been vacant for one year, abandonment will be presumed unless the owner of

21 the property can show that the property has not been abandoned: *Provided*, That neither the
22 absence of natural resources extraction or harvesting nor the absence of any particular
23 agricultural, industrial or manufacturing process may be construed as abandonment of the use. If
24 the property is shown to be abandoned, then any future use of the land, buildings or structures
25 ~~must~~ shall conform with the provisions of the zoning ordinance regulating the use where the land,
26 buildings or structures are located, unless the property is a duly designated historic landmark,
27 historic site or historic district.

28 (e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or
29 limiting, outside of municipalities or urban areas, the complete use (i) of natural resources by the
30 owner; or (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation
31 by the owner.

NOTE: The purpose of this bill is to limit the authority of counties and municipalities to prevent or limit an owner's complete use of natural resources or real property for farm or agricultural operations.

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