

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5164**

By Delegates Howell, W. Clark, Hillenbrand, Dittman,  
Crouse, Lucas, Campbell, Adkins, Thorne, Hott, and  
Hornbuckle

[Introduced January 25, 2024; Referred to the  
Committee on Government Organization then  
Economic Development and Tourism]

1 A BILL to amend and reenact §8A-7-10; and to amend the Code of West Virginia, 1931, as  
 2 amended, by adding thereto a new section, designated §8A-7-14; and to amend and  
 3 reenact §21-14-3; §29-3B-3; §30-42-3; §37-15-2 of the Code of West Virginia, 1931, as  
 4 amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a  
 5 new article, designated §37-16-1, §37-16-2, §37-16-3, §37-16-4, §37-16-5, and §37-16-6,  
 6 all relating to the land use, manufacture, installation, and safety certification of fabricated  
 7 self-contained expandable box built permanent homes, expanding the powers of the  
 8 establishing the West Virginia Manufactured Housing Construction and Safety Board,  
 9 providing definitions, and limiting manufacturer liability.

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

**CHAPTER 8A. LAND USE PLANNING.**

<b>ARTICLE</b>	<b>7.</b>	<b>ZONING</b>	<b>ORDINANCE.</b>
<b>§8A-7-10.</b>	<b>Effect</b>	<b>of</b>	<b>enacted zoning ordinance.</b>

1 (a) After enactment of a zoning ordinance by a municipality or county, all subsequent land  
 2 development 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 5 ordinances, are hereby validated and continued in effect until amended or repealed by action of  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 may continue  
 10 the same use and that use may not be prohibited by the zoning ordinance so long as the use of the  
 11 land, buildings or structures is maintained, and no zoning ordinance may prohibit alterations or  
 12 additions to or replacement of buildings or structures owned by any farm, industry or manufacturer,

13 or the use of land presently owned by any farm, industry or manufacturer but not used for  
14 agricultural, industrial or manufacturing purposes, or the use or acquisition of additional land which  
15 may be required for the protection, continuing development or expansion of any agricultural,  
16 industrial or manufacturing operation of any present or future satellite agricultural, industrial or  
17 manufacturing use. A zoning ordinance may provide for the enlargement or extension of a  
18 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 the  
20 property has been vacant for one-year, abandonment will be presumed unless the owner of the  
21 property can show that the property has not been abandoned: *Provided*, That neither the absence  
22 of natural resources extraction or harvesting nor the absence of any particular agricultural,  
23 industrial or manufacturing process may be construed as abandonment of the use. If the property  
24 is shown to be abandoned, then any future use of the land, buildings or structures shall conform  
25 with the provisions of the zoning ordinance regulating the use where the land, buildings or  
26 structures are located, unless the property is a duly designated historic landmark, historic site or  
27 historic district.

28 (e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or limiting,  
29 outside of municipalities or urban areas, the complete use (i) of natural resources by the owner; or  
30 (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation as defined in  
31 §19-19-2 by the owner. For purposes of this article, agritourism includes, but is not limited to, the  
32 definition set forth in §19-36-2.

1 (f) Nothing in this chapter authorizes an ordinance, rule or regulation that distinguishes  
2 between Fabricated self-contained expandable box built permanent homes or "boxes", as defined  
3 in §37-16-2 of this code, and traditional construction.

4 (g) Nothing in this chapter authorizes an ordinance, rule, or regulation that:

5 (1) Imposes an undue hardship on consumers or manufacturers of Fabricated self-  
6 contained expandable box built permanent homes or "boxes", as defined in §37-16-2 of this code;

7 (2) Reduces the overall number of residential units available to consumers; or

8 (3) Increases the cost of home ownership.

9 **§8A-7-14. Accessory dwelling units.**

10 (a) "Accessory Dwelling Unit" means any unit self-contained dwelling unit located within,  
11 attached to, or detached from a single-family housing unit, duplex, triplex, townhome, or other  
12 housing unit located on the same parcel of land.

13 (1) Fabricated self-contained expandable box built permanent homes or "boxes", as  
14 defined in §37-16-2 of this code, may be used as accessory dwelling units.

15 (2) Units mounted upon a chassis may be used as Accessory Dwelling Units with or  
16 without the wheels attached, provided the units comply with one of the following:

17 (A) The State Building Code and State Fire Code as set forth in §15A-11-3 and §15A-11-5  
18 of this code and any legislative rules promulgated pursuant thereto; or

19 (B) The following codes:

20 (1) The 2009 edition of the International Building Code, or any more recent edition, issued  
21 by the International Code Council;

22 (2) The 2009 edition of the International Residential Code, or any more recent edition,  
23 issued by the International Code Council;

24 (3) The 2009 edition of the International Plumbing Code, or any more recent edition, issued  
25 by the International Code Council;

26 (4) The 2009 edition of the International Mechanical Code, or any more recent edition  
27 issued, by the International Code Council

28 (5) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued  
29 by the International Code Council;

30 (6) The 2008 edition of the National Electrical Code, or any more recent edition, issued by  
31 the National Fire Protection Association; and

32 (7) The 2012 edition of the International Energy Conservation Code, or any more recent

33 edition, issued by the international code council.

34 (C) The Box Building and Safety Code, issued by the Box Code Council.

35 (D) ANSI A119.2 or A119.5

36 (E) Federal standards, as defined in §21-9-2 of this code.

37 (b) With respect to accessory dwelling units, zoning ordinances must comply with the  
38 following conditions:

39 (1) At least one accessory dwelling unit must be allowed on any lot where there is a single-  
40 family housing unit, duplex, triplex, townhome, or other housing unit.;

41 (2) If more than one accessory dwelling unit has been constructed on a lot as a result of the  
42 allowance under this section, the lot is not eligible for any additional increases in density except as  
43 allowed by the municipality; and

44 (3) An accessory dwelling unit is allowed on a lot that does not conform to the municipal  
45 zoning ordinance if the accessory dwelling unit does not further increase the nonconformity.

46 (c) With respect to accessory dwelling units, municipalities shall comply with the following  
47 conditions.

48 (1) A municipality shall exempt an accessory dwelling unit from any density requirements  
49 or calculations related to the area in which the accessory dwelling unit is constructed.

50 (2) A municipality may not require a setback from a property line applicable to accessory  
51 dwelling units that is greater than five feet.

52 (3) An accessory dwelling unit may not be subject to any additional parking requirements  
53 beyond the parking requirements of the single-family dwelling unit on the lot where the accessory  
54 dwelling unit is located.

55 (4) An accessory dwelling unit that was not built with municipal approval must be allowed if  
56 the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the  
57 municipality and under this section.

58 (d) An accessory dwelling unit must meet a minimum size of 100 square feet. A

59 municipality may impose a maximum size for an accessory dwelling unit, provided such maximum  
60 size is not less than 1200 square feet.

61 (e) The owner of an accessory dwelling unit must provide written verification to the  
62 municipality that the accessory dwelling unit is connected to adequate water and wastewater  
63 services before the municipality may certify the accessory dwelling unit for occupancy. Written  
64 verification under this subsection must include:

65 (1) If an accessory dwelling unit is connected to a public, special district or other  
66 comparable sewer system, proof of adequate service to support any additional flow created by the  
67 accessory dwelling unit and proof of payment for the connection to the sewer system;

68 (2) If an accessory dwelling unit is connected to a public, special district or other centrally  
69 managed water system, proof of adequate service to support any additional flow created by the  
70 accessory dwelling unit, proof of payment for the connection and the volume and supply of water  
71 required for the accessory dwelling unit; and

72 (3) If an accessory dwelling unit is connected to a well, proof of access to potable water.  
73 Any tests of an existing well or proposed well must indicate that the water supply is potable and  
74 acceptable for domestic use.

75 (f) In adopting an ordinance under this section, a municipality may establish an application  
76 and permitting process for accessory dwelling units that does not require planning board approval.

77 (1) All applications for permits for accessory dwelling units must be approved or denied  
78 with 14 days of receipt.

79 (2) If no decision is rendered within that period, the permit is automatically granted. If an  
80 application is denied, the local jurisdiction must provide a written statement detailing the reason(s)  
81 why the applications was denied.

82 (g) No municipality may restrict or limit the use of accessory dwelling unit for leases or  
83 short-term rentals.

84 (1) For purposes of this subsection, "Short-term rental" means a lodging use, that is not a

85 hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, that is offered or  
86 provided to a guest by a short-term rental operator for a fee for one night in total.

87 (2) The term "leases" includes a written agreement pursuant to §37-15-3 of this code.

**CHAPTER 21. LABOR**

**ARTICLE 14. SUPERVISION OF PLUMBING WORK.**

**§21-14-3. License required; exemptions.**

1 (a) On and after January 1, 2009, a person performing or offering to perform plumbing work  
2 in this state shall have a license issued by the Commissioner of Labor, in accordance with the  
3 provisions of this article.

4 (b) A person licensed under this article must carry a copy of the license on any job in which  
5 plumbing work is being performed.

6 (c) This article does not apply to:

7 (1) A person who personally performs plumbing work on a single family dwelling owned or  
8 leased by that person or by a member of that person's immediate family;

9 (2) A person who performs plumbing at any manufacturing plant or other industrial  
10 establishment as an employee of the person, firm or corporation operating the plant or  
11 establishment;

12 (3) A person who performs plumbing work while employed by an employer who engages in  
13 the business of selling appliances at retail, so long as such plumbing work is performed incidental  
14 to the installation or repair of appliances sold by the employer;

15 (4) A person who, while employed by a public utility or its affiliate, performs plumbing in  
16 connection with the furnishing of public utility service;

17 (5) A person who performs plumbing work while engaging in the business of installing,  
18 altering or repairing water distribution or drainage lines outside the foundation walls of a building,  
19 public or private sewage treatment or water treatment systems including all associated structures

20 or buildings, sewers or underground utility services;

21 (6) A person who performs plumbing work while engaged in the installation, extension,  
22 dismantling, adjustment, repair, servicing or alteration of a heating ventilation and air conditioning  
23 (HVAC) system, air-veyor system, air exhaust system or air handling system;

24 (7) A person who performs plumbing work at a coal mine that is being actively mined or  
25 where coal is being processed; or

26 (8) A person who performs plumbing work at manufacturing, industrial and natural gas  
27 facilities; or

28 (9) A person who participates in the manufacture or installation of fabricated self-contained  
29 expandable box built permanent homes, as set forth in §37-16-1 et seq. of this code.

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 3B. SUPERVISION OF ELECTRICIANS.**

**§29-3B-3. Exemptions; nonapplicability of license requirements; legislative rules for  
limited reciprocity.**

1 (a) This article does not apply to, and no license may be required for:

2 (1) A person who performs electrical work with respect to any property owned or leased by  
3 that person or that person’s immediate family;

4 (2) A person who performs electrical work at any manufacturing plant or other industrial  
5 establishment as an employee of the firm or corporation operating the plant or establishment;

6 (3) A person who performs electrical work while employed by an employer who engages in  
7 the business of selling appliances at retail, so long as such electrical work is performed incident to  
8 the installation or repair of appliances sold by the employer;

9 (4) A person who, while employed by a public utility or its affiliate, performs electrical work  
10 in connection with the furnishing of public utility service;

11 (5) Any government employee performing electrical work on government property; or



12 (6) Any person who performs low voltage electrical work with only low voltage wiring will  
13 not be required to have an electrician's license other than a specialty license. For purposes of this  
14 section, low voltage electrical work is 80 volts or less, and directly related wiring. Wiring is directly  
15 related if it:

16 (A) Originated at the load-side terminals of a disconnecting means or junction box that has  
17 been installed, complete with line-side connections by others for the specific purpose of supply to  
18 the low voltage wiring system involved;

19 (B) Is permanently and legibly marked to identify the low voltage wiring system supplied;  
20 and

21 (C) Is not installed in a location considered hazardous under the National Electrical Code.

22 (7) A person participating in the manufacture or installation of fabricated self-contained  
23 expandable box built permanent homes, as set forth in §37-16-1, et seq. of this code.

24 (b)(1) Notwithstanding any other provision of this article to the contrary, a journeyman or  
25 master electrician license may be issued for a person who is a former resident of this state, who  
26 formerly held an electrician's license issued by this state, who has obtained an equivalent  
27 electrician license from another state, and who returns to this state as a permanent resident,  
28 without requiring the person to meet the application or examination requirements that would  
29 otherwise be imposed on the person by the requirements of this article when the issuance of the  
30 license is permitted by legislative rules promulgated pursuant to the provisions of this subsection.

31 (2) The State Fire Marshal shall propose rules for legislative approval in accordance with  
32 the provisions of §29A-3-1 *et seq.* of this code to provide for the licensing of electricians with  
33 equivalent qualifications described in subdivision (1) of this subsection. Notwithstanding any other  
34 provision of this code to the contrary, the legislative rules described in this subsection may not be  
35 filed as emergency rules.

## CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

**ARTICLE 42. WEST VIRGINIA CONTRACTOR LICENSING ACT.**

**§30-42-3.**

**Definitions.**

1 (a) "Basic universal design" means the design of products and environments to be useable  
2 by all people, to the greatest extent possible, without the need for adaptation or specialization.

3 (b) "Board" means the West Virginia Contractor Licensing Board.

4 (c) "Cease and desist order" means an order issued by the board pursuant to the  
5 provisions of this article.

6 (d) "Contractor" means a person who in any capacity for compensation, other than as an  
7 employee of another, undertakes, offers to undertake, purports to have the capacity to undertake,  
8 or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or  
9 demolish any building, highway, road, railroad, structure, or excavation associated with a project,  
10 development, or improvement, or to do any part thereof, including the erection of scaffolding or  
11 other structures or works in connection therewith, where the cost of the undertaking is \$5,000 or  
12 more for residential work or \$25,000 or more for commercial work.

13 Contractor includes a construction manager who performs management and counseling  
14 services for a construction project for a professional fee.

15 Contractor does not include:

16 (1) One who merely furnishes materials or supplies without fabricating or consuming them  
17 in the construction project;

18 (2) A person who personally performs construction work on the site of real property which  
19 the person owns or leases whether for commercial or residential purposes;

20 (3) A person who is licensed or registered as a professional and who functions under the  
21 control of any other licensing or regulatory board, whose primary business is real estate sales,  
22 appraisal, development, management, and maintenance, who acting in his or her respective  
23 professional capacity and any employee of the professional, acting in the course of his or her  
24 employment, performs any work which may be considered to be performing contracting work;

25 (4) A pest control operator licensed under the provisions of §19-16A-7 of this code to  
26 engage in the application of pesticides for hire, unless the operator also performs structural repairs  
27 exceeding \$1,000 on property treated for insect pests;

28 (5) A corporation, partnership, or sole proprietorship whose primary purpose is to prepare  
29 construction plans and specifications used by the contractors defined in this subsection and who  
30 employs full-time a registered architect licensed to practice in this state or a registered  
31 professional engineer licensed to practice in this state. Employees of the corporation, partnership  
32 or sole proprietorship shall also be exempt from the requirements of this article; or

33 (6) A person who performs landscaping or painting services for commercial or residential  
34 customers.

35 (7) A person licensed to install fabricated self-contained expandable box built permanent  
36 homes, as set forth in §37-16-1, et seq. of this code; or

37 (8) A person or entity that manufactures fabricated self-contained expandable box built  
38 permanent homes, as set forth in §37-16-1, et seq. of this code.

39 (e) "Electrical contractor" means a person who engages in the business of contracting to  
40 install, erect, repair, or alter electrical equipment for the generation, transmission, or utilization of  
41 electrical energy.

42 (f) "General building contractor" means a person whose principal business is in connection  
43 with any structures built, being built, or to be built for the support, shelter, and enclosure of  
44 persons, animals, chattels, or movable property of any kind, requiring in the construction the use of  
45 more than two contractor classifications, or a person who supervises the whole, or any part, of the  
46 construction.

47 (g) "General engineering contractor" means a person whose principal business is in  
48 connection with public or private works projects, including, but not limited to, one or more of the  
49 following: Irrigation, drainage, and water supply projects; electrical generation projects; swimming  
50 pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and

51 sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and  
52 other liquid or gaseous substances; refineries; chemical plants and other industrial plants  
53 requiring a specialized engineering knowledge and skill; piers and foundations; and structures or  
54 work incidental thereto.

55 (h) "Heating, ventilating and cooling contractor" means a person who engages in the  
56 business of contracting to install, erect, repair, service, or alter heating, ventilating and air  
57 conditioning equipment or systems to heat, cool, or ventilate residential and commercial  
58 structures.

59 (i) "License" means a license to engage in business in this state as a contractor in one of  
60 the classifications set out in this article.

61 (j) "Multifamily contractor" means a person who is engaged in construction, repair, or  
62 improvement of a multifamily residential structure.

63 (k) "Person" includes an individual, firm, sole proprietorship, partnership, corporation,  
64 association, or other entity engaged in the undertaking of construction projects or any combination  
65 thereof.

66 (l) "Piping contractor" means a person whose principal business is the installation of  
67 process, power plant, air, oil, gasoline, chemical, or other kinds of piping; and boilers and pressure  
68 vessels using joining methods of thread, weld, solvent weld, or mechanical methods.

69 (m) "Plumbing contractor" means a person whose principal business is the installation,  
70 maintenance, extension, and alteration of piping, plumbing fixtures, plumbing appliances and  
71 plumbing appurtenances, venting systems and public or private water supply systems within or  
72 adjacent to any building or structure; included in this definition is installation of gas piping, chilled  
73 water piping in connection with refrigeration processes and comfort cooling, hot water piping in  
74 connection with building heating and piping for stand pipes.

75 (n) "Residential contractor" means a person whose principal business is in connection with  
76 construction, repair, or improvement of real property used as, or intended to be used for,

77 residential occupancy.

78 (o) "Specialty contractor" means a person who engages in specialty contracting services  
79 which do not substantially fall within the scope of any contractor classification as set out herein.

80 (p) "Residential occupancy" means occupancy of a structure for residential purposes for  
81 periods greater than 30 consecutive calendar days.

82 (q) "Residential structure" means a building or structure used or intended to be used for  
83 residential occupancy, together with related facilities appurtenant to the premises as an adjunct of  
84 residential occupancy, which contains not more than three distinct floors which are above grade in  
85 any structural unit regardless of whether the building or structure is designed and constructed for  
86 one or more living units. Dormitories, hotels, motels, or other transient lodging units are not  
87 residential structures.

88 (r) "Subcontractor" means a person who performs a portion of a project undertaken by a  
89 principal or general contractor or another subcontractor.

**CHAPTER 37. REAL PROPERTY.**

**ARTICLE 15. HOUSE TRAILERS, MOBILE HOMES, MANUFACTURED HOMES AND  
MODULAR HOMES.**

**§37-15-2. Definitions.**

1 For the purposes of this article, unless expressly stated otherwise:

2 (a) "Abandoned factory-built home" means a factory-built home occupying a factory-built  
3 home site pursuant to a written agreement under which the tenant has defaulted in rent or the  
4 landlord has exercised any right to terminate the rental agreement;

5 (b) "Factory-built home" includes modular homes, mobile homes, house trailers and  
6 manufactured homes;

7 (c) "Factory-built home rental community" means a parcel of land under single or common  
8 ownership upon which two or more factory-built homes are located on a continual, nonrecreational

9 basis together with any structure, equipment, road or facility intended for use incidental to the  
10 occupancy of the factory-built homes, but does not include premises used solely for storage or  
11 display of uninhabited factory-built homes or premises occupied solely by a landowner and  
12 members of his or her family;

13 (d) "Factory-built home site" means a parcel of land within the boundaries of a factory-built  
14 home rental community provided for the placement of a single factory-built home and the exclusive  
15 use of its occupants;

16 (e) "Good cause" means:

17 (1) The tenant is in arrears in the payment of periodic payments or other charges;

18 (2) The tenant has breached a material term of a written rental agreement or has  
19 repeatedly breached other terms of the rental agreement;

20 (3) Where there is no written agreement, or where the written agreement does not cover  
21 the subject matter of a warranty or leasehold covenant, the tenant breached a material warranty or  
22 leasehold covenant or has repeatedly breached other terms of a warranty or a leasehold  
23 covenant;

24 (4) The tenant has deliberately or negligently damaged the property or knowingly permitted  
25 another person to do so.

26 (f) "House trailers" means all trailers designed or intended for human occupancy and  
27 commonly referred to as mobile homes or house trailers and shall include fold down camping and  
28 travel trailers as these terms are defined in §17A-6-1 of this code, but only when such camping  
29 and travel trailers are located in a factory-built home rental community, as defined in this section,  
30 on a continual, nonrecreational basis.

31 (g) "Landlord" means the factory-built home rental community owner, lessor or sublessor of  
32 the factory-built home rental community, or an agent or representative authorized to act on his or  
33 her behalf in connection with matters relating to tenancy in the community.

34 (h) "Manufactured home" has the same meaning as the term is defined in §21-9-2 of this

35 code which meets the National Manufactured Housing Construction and Safety Standards Act of  
36 1974 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and the federal manufactured home  
37 construction and safety standards and regulations promulgated by the secretary of the United  
38 States department of housing and urban development.

39 (i) "Mobile home" means a transportable structure that is wholly, or in substantial part,  
40 made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and  
41 installation on a building site and designed for long-term residential use and built prior to  
42 enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974  
43 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and usually built to the voluntary industry  
44 standard of the American national standards institute (ANSI)--A119.1 standards for mobile homes.

45 (j) "Modular home" means any structure that is wholly, or in substantial part, made,  
46 fabricated, formed or assembled in manufacturing facilities for installation or assembly and  
47 installation on a building site and designed for long-term residential use and is certified as meeting  
48 the standards contained in the state fire code encompassed in the legislative rules promulgated by  
49 the state Fire Commission pursuant to §29-3-5b of this code: Provided, That "Modular home" shall  
50 not mean nor be construed to mean by any state authority, nor any local or county political  
51 subdivision authority, to include fabricated self-contained expandable box built permanent homes  
52 or "boxes" as set forth in §37-16-1, et seq. of this code.

53 (k) "Owner" means one or more persons, jointly or severally, in whom is vested: (i) All or  
54 part of the legal title to the factory-built home rental community; or (ii) all or part of the beneficial  
55 ownership and right to present use and enjoyment of the factory-built homesite or other areas  
56 specified in the rental agreement and the term includes a mortgagee in possession.

57 (l) "Rent" means payments made by the tenant to the landlord for use of a factory-built  
58 home site and as payment for other facilities or services provided by the landlord.

59 (m) "Section" means a unit of a factory-built home which is transported and delivered as a  
60 whole and which contains some or all of the indoor living area.

61 (n) "Tenant" means a person entitled pursuant to a rental agreement to occupy a factory-  
62 built home site to the exclusion of others.

**ARTICLE 16. FABRICATED SELF-CONTAINED EXPANDABLE BOX BUILT PERMANENT HOMES.**

**§37-16-1. Legislative findings, purpose, and applicability.**

1 (a) The Legislature hereby finds as follows: There is a present and growing need for  
2 affordable housing within the state. The cost of housing is a significant impediment to home  
3 ownership and/or otherwise obtaining housing, for many residents of the state. The private  
4 housing and construction industry has developed mass production techniques that can  
5 substantially reduce housing and building costs. Such mass production techniques involve factory  
6 manufacture processes and inspection procedures that ensure the satisfaction of uniform health  
7 and safety standards at the factory, which reduce or eliminate the need for certain inspection  
8 procedures at the sites where such fabricated self-contained expandable box built permanent  
9 homes are installed. Accordingly, in an effort to make housing and home ownership more available  
10 and feasible for a greater number of residents of the state, it is necessary and appropriate to  
11 reduce regulatory costs by modifying and streamlining standards and inspection procedures  
12 applicable to such fabricated self-contained expandable box built permanent homes.

13 (b) The purpose of this article is to recognize the distinction between simple factory-built  
14 homes as defined in §37-15-2 of this code and fabricated self-contained expandable box built  
15 permanent homes as defined in §37-16-1 et seq. of this code and to establish manufacture,  
16 installation, and safety certification for same. It is the intent of the legislature to acknowledge the  
17 differences between these categories of homes for manufacture, installation, and safety  
18 certification purposes.

19 (c) In addition, it is the purpose of this article to clarify that fabricated self-contained  
20 expandable box built permanent homes are real property.

1 (d) To promote the goal of reducing manufacturing costs and increasing home affordability,



2 no provision of this article shall be interpreted in a manner which causes an undue burden on  
3 fabricated self-contained expandable box built permanent home manufacturers or consumers.

**§37-16-2.****Definitions.**

1 As used in this part, the term:

2 (a) "Board" means the West Virginia Manufactured Housing Construction and Safety  
3 Board.

4 (b) "Certification number" means a unique number assigned to a fabricated self-contained  
5 expandable box built permanent home or "box" unit by the registered manufacturer.

6 (c) "Certified box installer" means a person certified pursuant to §37-16-5 of this code.

7 (d) "Commissioner" means the commissioner of the West Virginia Division of Labor.

8 (e) "Component" means any assembly, subassembly, or combination of parts for use as a  
9 part of a building, which may include structural, electrical, plumbing, mechanical, and fire  
10 protection systems and other systems affecting health and safety.

11 (f) "Equipment" means all materials appliances, devices, fixtures, fittings, or accessories  
12 installed in or used in the manufacture and assembly of a box.

13 (g) "Installation" means the assembly of a box on site and the process of affixing the box,  
14 component, or system to land, a foundation, footings, or an existing building. "installation" includes  
15 all work, including work involving electrical and plumbing systems, necessary to assemble and  
16 affix the unit.

17 (h) "Applicable local government subdivision" means a county or municipality, incorporated  
18 or unincorporated, of the state of West Virginia.

19 (i) "Manufacture" means the process of making, fabricating, constructing, forming, or  
20 assembling a product from raw, unfinished, or semifinished materials.

21 (j) "Model", when used with regard to a box, means a specific design of box which is based  
22 on size, room arrangement, method of construction, location arrangement, or size of plumbing,  
23 heating, or electrical equipment systems.

24 (k) "Fabricated self-contained expandable box built permanent home" or "box" means any  
25 structure that is wholly, or in part, made, fabricated, formed or assembled in manufacturing  
26 facilities for installation or assembly and installation on a building site and is certified in its  
27 manufactured specifications as meeting either:

28 (1) The State Building Code and State Fire Code as set forth in §15A-11-3 and §15A-11-5  
29 of this code and any legislative rules promulgated pursuant thereto; or

30 (2) Complies with any of the following the following codes:

31 (A) The 2009 edition of the International Building Code, or any more recent edition, issued  
32 by the International Code Council;

33 (B) The 2009 edition of the International Residential Code, or any more recent edition,  
34 issued by the International Code Council;

35 (C) The 2009 edition of the International Plumbing Code, or any more recent edition,  
36 issued by the International Code Council;

37 (D) The 2009 edition of the International Mechanical Code, or any more recent edition  
38 issued, by the International Code Council;

39 (E) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued  
40 by the International Code Council;

41 (F) The 2008 edition of the National Electrical Code, or any more recent edition, issued by  
42 the National Fire Protection Association;

43 (G) The 2012 edition of the International Energy Conservation Code, or any more recent  
44 edition, issued by the international code council;

45 (H) ANSI 119.2;

46 (I) ANSI 119.5;

47 (J) The National Manufactured Housing Construction and Safety Standards Act of 1974,  
48 and federal manufactured home construction and safety standards and regulations promulgated  
49 by the secretary of HUD to implement that act; or

50 (K) The Box Building Code issued by the Box Code Council.

51 (l) "Registered manufacturer" means a manufacturer of fabricated self-contained  
52 expandable box built permanent home bearing a certification number.

53 (m) "Site" means the entire tract, subdivision, or parcel of land on which the box is installed.

54 (n) "System" means structural, plumbing, mechanical, electrical, or fire safety elements,  
55 materials, or components used separately or combined for use in a box.

**§37-16-3. Powers and duties of board generally; self certification of manufacturers;**  
**authority of local government agencies.**

1 (a) The board may:

2 (1) Propose rules for legislative approval in accordance with the provisions of § 29A-3-1 et  
3 seq. of this code to facilitate the implementation of this article: *Provided*, That such rules may not  
4 impose any new requirements upon registered manufacturers beyond those set forth in §37-16-1  
5 et seq. of this code nor impose costs upon registered manufacturers or consumers of fabricated  
6 self-contained expandable box built permanent homes;

7 (2) Adopt only rules imposing minimum construction requirements for fabricated self-  
8 contained expandable box built permanent homes that follow those set forth for the self-  
9 certification manufacturing practices, design construction and safety standards for fabricated self-  
10 contained expandable box built permanent homes set forth in §37-16-1 et seq. of this code and  
11 impose no additional costs upon registered manufacturers or consumers of fabricated self-  
12 contained expandable box built permanent homes.

13 (b) Manufacturers shall self-certify that the box units they manufacture are compliant with:

14 (1) The standards contained in the State Fire Code and State Building Code encompassed  
15 in any legislative rules promulgated by the State Fire Commission pursuant to §29-3-5b of this  
16 code; or

17 (2) The following Codes:

18 (A) The 2009 edition of the International Building Code, or any more recent edition, issued

19 by the International Code Council;

20 (B) The 2009 edition of the International Residential Code, or any more recent edition,  
21 issued by the International Code Council;

22 (C) The 2009 edition of the International Plumbing Code, or any more recent edition,  
23 issued by the International Code Council;

24 (D) The 2009 edition of the International Mechanical Code, or any more recent edition  
25 issued, by the International Code Council;

26 (E) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued  
27 by the International Code Council;

28 (F) The 2008 edition of the National Electrical Code, or any more recent edition, issued by  
29 the National Fire Protection Association;

30 (G) The 2012 edition of the International Energy Conservation Code, or any more recent  
31 edition, issued by the international code council;

32 (H) ANSI 119.2;

33 (I) ANSI 119.5;

34 (J) The National Manufactured Housing Construction and Safety Standards Act of 1974,  
35 and federal manufactured home construction and safety standards and regulations promulgated  
36 by the Secretary of HUD to implement that act; or

37 (K) The Box Building Code issued by the Box Code Council.

38 (c) Manufacturers shall be required to maintain copies of the following documents, which  
39 shall be made available for inspection upon request of the board or applicable local government  
40 subdivision.

41 (1) One set of manufacture plans for each model box manufactured showing all elements  
42 relating to a specific basic model on a sheet or sheets properly identifiable as such. The plans shall  
43 include a certification by a Professional Engineer that the plans comply with the requirements of  
44 either the standards contained in the State Fire Code and State Building Code encompassed in

45 the legislative rules promulgated by the State Fire Commission pursuant to §29A-3-5b or the  
46 standards described in §37-16-3(a) of this code.

47 (2) One copy of detailed manufacturer's installation instructions for the assembly of the  
48 modular components for each model of box manufactured. Such instructions shall reflect detailed  
49 instructions for the installation of the unit(s), including the fastening of dormers if applicable, roof  
50 installation details, floor fastening, end wall fastening, king post installation, and any other on-site  
51 assembly of manufacturer supplied components; and

52 (3) One copy of the quality control manual. The quality control manual shall contain the  
53 following:

54 (A) An index;

55 (B) The identity of the company or corporate officer responsible for the quality control  
56 program;

57 (C) The manner in which the manufacturer will maintain his quality control to meet the  
58 standards set forth by this article;

59 (D) The manner in which units can be identified during production for the purposes of  
60 inspection relative to the approved plans. The model, floor plan, and design loading, as applicable,  
61 shall be indicated;

62 (E) The procedure for maintain a record system indicating the type and date of inspections  
63 performed on each unit;

64 (F) A general outline and/or schematic indicating the sequence of the manufacturing and  
65 assembly processes. It shall also indicate the sequence, type, and frequency of the quality control  
66 procedures to be instituted;

67 (G) The method of storage and support of the completed units at the manufacturing plant  
68 and any other location including the site prior to installation.

69 (4) One copy of the wall system inspection manual. The wall system inspection manual  
70 shall describe the procedure for performing an external visual inspection of a box unit's wall

71 system.

72 (d) Upon the board's verification that a registered manufacturer's self-certification for the  
73 design and manufacture of any model fabricated self-contained expandable box built permanent  
74 homes or box is in compliance with the design and manufacturing standards set forth in §37-16-  
75 3(a) of this code, no further verification or self-certification of the registered manufacturer's  
76 compliance with the design and manufacturing standards set forth in §37-16-3(a) of this code  
77 unless or until the registered manufacturer redesigns any model of fabricated self-contained  
78 expandable box built permanent homes or box into a configuration materially different from that  
79 previously self-certified. The registered manufacturer shall notify the board upon such material  
80 redesign self-certification prior to manufacture to allow the board adequate time to verify the  
81 compliance of the self-certification with the design and manufacturing standards set forth in §37-  
82 16-3(a) of this code.

83 (e) Upon the board's verification of a registered manufacturer's self-certification, a  
84 registered manufacturer shall stamp, decal, or otherwise affix to each box unit with a  
85 corresponding certification number. The certification number for a given box unit shall be the first  
86 four letters of a registered manufacturer's name, followed by a unique seven number sequence.  
87 The manufacturer may select any sequence of seven numbers provided that each sequence is  
88 unique to an individual unit. All fabricated self-contained expandable box built permanent homes  
89 bearing a registered manufacturer's certification number pursuant to this section shall be deemed  
90 to comply with the state minimum standards, codes and all ordinances and regulations enacted by  
91 any applicable local government subdivision. The board's verification of a registered  
92 manufacturer's self-certification is final.

93 (f) The provisions of these rules are not intended to prevent the use of any material or  
94 method of construction not specifically prescribed by these rules, provided any such alternate has  
95 been approved by a Professional Engineer who is licensed in any state. The Professional  
96 Engineer must certify that the alternate, for the purpose intended, is at least the equivalent of that

97 prescribed in these rules in quality, strength, effectiveness, fire resistance, durability, and safety.

98 (g) Boxes that bear a certification number pursuant to this chapter upon manufacture or  
99 first sale shall not require an additional approval or insignia by any applicable local government  
100 subdivision in which they are subsequently sold or installed.

101 (h) Any city or county official who violates the provisions of this chapter by refusing to  
102 accept a box approved by the board shall personally be liable and not be immune from prosecution  
103 if suit is brought by a party to said transaction.

104 (i) The board shall not set or charge a registered manufacturer any fee in connection with  
105 an application approval under this §37-16-3 of the code that exceeds the board's administrative  
106 cost of processing the application paperwork.

**§37-16-4. Enforcement of article; inspection of boxes.**

1 (a) The board shall enforce the provisions of this chapter and the regulations adopted  
2 pursuant hereto.

3 (b) The board or applicable local government subdivision may inspect box units prior to  
4 installation at the factory to ensure compliance with the applicable manufacture plans,  
5 specifications, and quality assurance manual. The inspection may not delay the manufacture or  
6 installation of the box unit(s) being inspected.

7 (c) Either the board or applicable local government subdivision may inspect, or cause to be  
8 inspected, a box and site one time after a box is installed. Such inspection may only be performed  
9 to ensure compliance with the applicable manufacturer's installation instructions.

10 (1) Should an inspection be performed pursuant to this subsection, both the box and site  
11 must be inspected during the inspection. For the purpose of this section, inspection of the site shall  
12 include inspection of utility connections and inspection of any foundation that the box unit will be  
13 installed upon.

14 (2) Inspection under this subsection must be noticed one week in advance.

15 (d) All inspections shall be at the expense of the board or the local government conducting

16 the inspection.

17 (e) Inspections pursuant to this section may be performed remotely through the use of  
18 video submission or synchronous video communication at the request of a certified installer or  
19 registered manufacturer.

20 (f) Wall systems of boxes may only be inspected pursuant to the applicable wall system  
21 inspection manual.

22 (g) If a violation is found during an inspection performed pursuant to this subsection (b), the  
23 board or applicable local government subdivision jurisdiction shall issue the manufacturer a  
24 written notice identifying the violation(s) found during the inspection. The manufacturer shall have  
25 120 days to remedy the violations. Should a manufacturer fail to remedy the violation(s) identified  
26 in the notice, The board or local jurisdiction may obtain injunctive relief from the proper circuit court  
27 to enjoin the manufacture, sale, or delivery of boxes.

28 (h) If a violation is found during an inspection performed pursuant to this subsection (c), the  
29 board or local jurisdiction shall issue the installer a written notice identifying the violation(s) found  
30 during the inspection. The installer shall have 120 days to remedy the violations. Should a  
31 manufacturer fail to remedy the violation(s) identified in the notice, The board or local jurisdiction  
32 may obtain injunctive relief from the proper circuit court to enjoin the installation of boxes.

33 (i) Boxes and sites may only be inspected pursuant to subsection (b) and (c) of this section  
34 and any and all applicable local government subdivision construction codes or inspection authority  
35 beyond that expressly contained in §37-16-1 *et seq.* of the code is expressly pre-empted.

**§37-16-5. Installation of fabricated self-contained expandable box built permanent homes.**

1 (a) Certified box installers must satisfactorily complete a modular installer's course  
2 approved by a registered manufacturer and pass a written or oral test prior to being certified to  
3 install a model. Each applicant, once certified, may thereafter renew their certification with  
4 manufacturer approval.

5 (b) Each certified box installer shall be required to satisfactorily complete a refresher



6 course every two years after the completion of the initial course.

7 (c) A list of certified box installers will be maintained by each registered manufacturer on a  
8 website accessible to the public.

9 (d) A certified box installer must maintain proof of certification, which must be made  
10 available to the board or a local government upon request.

11 (e) A certified box installer is not required to be licensed as a contractor to install boxes.

12 (f) A registered manufacturer is not required to be licensed as a contractor to install boxes

13 (g) Notwithstanding any contrary statute, rule, or other requirement issued by a local  
14 jurisdiction, no permanent foundation or similar structure shall be required for box bearing an  
15 approval number, provided that the building plans are submitted to the local government and are  
16 accompanied by a certified statement from a Professional Engineer licensed in any state that such  
17 box is self-supporting and either requires no foundation, or sets forth the requirements for the  
18 structural support of such box.

19 (h) Any person who installs a box must either be:

20 (1) A certified box installer;

21 (2) A registered manufacturer; or

22 (3) A licensed contractor.

23 (i) Notwithstanding any statute, regulation, or ordinance to the contrary, an application for a  
24 permit to install a box must be approved by a local government within 30 days of receipt.

**§37-16-6. Limitation of manufacturer's liability.**

1 A registered manufacturer shall not be required to remedy violations caused by on-site  
2 work by others not under his control or violations involving components and materials furnished by  
3 others and not included with the box unit.

NOTE: The purpose of this bill is to establish state requirements for land use, manufacture, installation, and safety certification of Fabricated self-contained expandable box built permanent homes.

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