

WEST VIRGINIA CODE: §7-25-15

§7-25-15. Authorization to implement assessments for projects or services; procedures for implementing assessments; by-laws to provide additional procedures for implementation of assessments; notice to property owners before implementation of assessments for projects or services; voting on assessments; affidavit of publication.

(a) An assessment for a project within a resort area district shall be authorized by the adoption of a resolution by the board. The annual aggregate limit of assessments that may be levied against a parcel of real property within the district is five percent of the appraised value of the real property, including improvements, as shown in the property tax records and land books of the county in which the property is located. A resolution authorizing an assessment shall only be adopted after following the procedures set forth in this section.

(b) A service assessment within a resort area district shall be authorized by the adoption of a resolution by the board.

(c) The bylaws of a district shall provide the procedures not addressed in this section for the implementation of an assessment to pay the costs of a project or service: *Provided*, That the procedures must be consistent with constitutional standards and all other laws and rules of this state.

(d) Fifty-one percent or more of the owners of real property to be benefitted by a project or service may petition the board to implement an assessment to pay the costs of the project or service. A board may on its own initiative propose an assessment to pay the costs of a project or service upon approval by six sevenths of the board.

(e) Upon following the procedures provided in this section and a resort area district's bylaws for the implementation of an assessment to pay the costs of a project or service, the board may, after giving notice to all real property owners, holding a public meeting and a vote on the project or service if required by this section, adopt a resolution authorizing the assessment to pay the costs of a project or service upon approval by six sevenths of the board.

(f) Before the adoption of a resolution authorizing an assessment to pay the costs of a project or service, the board shall cause notice to be given to the owners of real property located within the resort area district that the resolution will be considered for adoption at a public meeting of the board at a date, time, and place named in the notice and that all persons at that meeting, or any adjournment thereof, shall be given an opportunity to protest or be heard concerning the adoption or rejection of the resolution. If, as provided in subsection (g) of this section, a favorable vote of the property owners is required before the board authorizes the assessment, the notice of meeting shall also contain information required to enable the owners of real property within the district that will be subject to the assessment

to vote on the assessment by mail or electronic means.

(g) An assessment may not be authorized by the board if at the public meeting required by this section written protest is filed by at least 25 percent of the owners of the real property within the district to be benefitted by the proposed project or service and subject to the assessment. However, before an assessment proposed by the board on its own initiative as provided in subsection (d) of this section is authorized by the board, the proposal must also receive the favorable vote of a majority of the votes cast at the meeting for the proposal by the owners of real property in the district that will be subject to the assessment. Voting at the meeting shall be in person or by proxy at the meeting, or by mailed ballot or electronic means received prior to the meeting. The voting rules set forth in §7-25-11(e) of this code apply to all voting on assessments. In the event of such protest, the proposed assessment in the same form may not be reconsidered by a board for a period of at least one year from the date of the public meeting.

(h) At least 30 days prior to the date of the public meeting, the notice required by this section shall, using reasonable efforts, be mailed to the owners of real property to be assessed for a proposed project as provided in subsection (l) of this section, posted in multiple, conspicuous, public locations within the district and published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for the publication is the resort area district.

(i) An affidavit of publication of the notice made by newspaper publisher, or a person authorized to do so on behalf of the publisher, and a copy of the notice shall be made part of the minutes of the board and spread on its records of the meeting described in the notice. The service of the notice upon all persons owning any interest in any real property located within the resort area district shall conclusively be determined to have been given upon completion of mailing as provided in subsection (l) of this section and the newspaper publication.

(j) After the public meeting and before the board may adopt a resolution authorizing implementation of assessments, the board shall, using reasonable efforts, mail a true copy of the proposed resolution authorizing implementation of an assessment to the owners of real property in the resort area district as provided in subsection (l) of this section.

(k) A board shall make available to the owners of real property within the district a list of all owners of real property within the district for the purposes of enabling the owners of real property to solicit support for a petition proposing or a protest against an assessment.

(l) For purposes of the mailing of each notice to owners of real property required by this section, reasonable efforts shall be made to mail the notice to all owners of real property required to receive notice under this section using the real property tax records and land books of the county in which the district is located and any lists maintained by a resort operator or homeowners association within the district. The notice shall be also mailed to each president of a homeowners association, if any, located within a district which has

registered with a resort operator to receive the information. Immaterial defects in the mailing of the notices shall not affect the validity of the notices.