WEST VIRGINIA CODE CHAPTER 7 ARTICLE 12A

WV Legislature

§7-12A-1. Definitions.

In this article the following terms shall have the meanings ascribed to them:

(1) "Expressway" means a road that serves major intrastate and interstate travel, including federal interstate routes.

(2) "Feeder" means a road that serves community to community travel or collects and feeds traffic to the higher systems or both.

(3) "Maintenance association" means an association established pursuant to the requirements of this article.

(4) "Maintenance association member" means any person owning residential property that fronts on either side of a road which is designated by a maintenance association document.

(5) "Maintenance association documents" means documents approved by the county commission as meeting the requirements of this article and filed with the clerk of the county commission.

(6) "Park and forest road" means a road that serves travel within state parks, state forests and public hunting and fishing areas.

(7) "Public roads" means all roads and bridges under the control of the county commission or the governing body of a municipality.

(8) "State local service road" means localized arterial and spur roads which provide land access and socioeconomic benefits to abutting properties.

(9) "State road" means and includes all roads classified and prescribed as either expressway, trunkline, feeder, park and forest or state local service" roads.

(10) "State road system" means roads that are functionally classified into five categories as follows: (1) Expressway; (2) trunkline; (3) feeder; (4) state local service; and (5) park and forest.

(11) "Trunkline" means a road that serves major city to city travel.

WV Legislature

§7-12A-2. Purpose of the maintenance association.

Maintenance associations may be established in any county outside an incorporated area to protect the health, safety and welfare of persons and the general public located within the designated maintenance association area. The maintenance association shall be created with the objective of establishing and maintaining improvements for the area designated in a petition filed pursuant to section three of this article, which may include constructing and maintaining shared streets, drainage facilities, sidewalks, water and sewer systems, signs, street lights and other improvements necessary for the protection of health, safety and welfare of the general public: Provided, That such improvements made to the state road system shall be made only as specified and approved by the commissioner of highways.

WV Legislature

§7-12A-3. Petition to establish maintenance association.

(a) A petition in writing may be made to the county commission that duly verifies that sixty percent of the persons owning property on both sides of any orphan road, subdivision road, state road or public road in any unincorporated area request the approval of the formation of a maintenance association. The petition shall be accompanied by the proposed maintenance association's recordable documents that establish the association.

(b) Upon the filing of such petition and the proposed maintenance association documents, the county commission shall fix a time and place for hearing protests and shall require the petitioners to post notice of such hearing in at least two conspicuous places on the state road, public road, orphan road or subdivision road of the area affected, and to give notice thereof by publication of such notice as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area for such publication shall be the county in which the maintenance association shall be located. The hearing shall be held not less than ten nor more than thirty days after the filing of such petition.

(c) At the time and place set for hearing protests, the county commission may examine witnesses and consider other evidence to show that:

(1) Said petition was filed in good faith;

(2) The signatures on the petition are genuine;

(3) The maintenance association document addresses the maintenance association purpose; and

(4) The proposed maintenance association will result in special benefits to all owners of residential property abutting on said orphan road, subdivision road, state road or public road.

The commission shall within ten days thereafter enter a formal order stating its decision.

(d) Any owner of residential property abutting upon said orphan road, subdivision road, state road or public road aggrieved by such order shall have the right to review the order on the record made before the county commission by filing a petition with the clerk of the circuit court within ten days after the entry of such order. The owner shall give bond in an amount to be fixed by the circuit court sufficient to pay costs or expenses incurred by the court and the maintenance association upon appeal if the order of the county commission is affirmed. The circuit court shall proceed to review the matter as in other appeals from the county commission.

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§7-12A-4. Contents of maintenance association document; approval of recording of maintenance association documents.

(a) The maintenance association document shall include language for:

(1) Conduct of business;

(2) Fee structure;

(3) Enforcement; and

(4) Voting requirements: Provided, That each affected property owner shall be accorded one vote per property.

(b) After a maintenance association has been approved by the county commission, a certified copy of the approved maintenance association documents shall be filed with the clerk of the county commission.

WV Legislature

§7-12A-5. Powers of maintenance associations.

A maintenance association formed pursuant to this article may have power and authority to:

(a) Assess fees for essential services, and

(b) Institute suits for the collection of such fees, attorneys fees and court costs.

WV Legislature

§7-12A-6. Assessment and collection of fees; notice.

(a) A maintenance association which furnishes essential services, including, but not limited to, construction and maintenance of shared streets, drainage facilities, sidewalks, water and sewer systems, signs and other improvements necessary for the health, safety and welfare of the general public, may have authority to impose reasonable fees and charges on persons owning lots abutting the frontage of both sides of roads listed in the maintenance association document.

(b) Any new fee or fee increase assessed under this section shall not be collectable unless notice of the proposed fee or increase is sent by certified mail to each person owning property listed in the maintenance association document. If thirty percent of the members, by signed petition, protest the assessment to the association within fifteen days of the mailing, the fee shall not become effective until it is ratified by sixty percent of the members.

(c) All fees assessed under this section are declared to be debts owing to the maintenance association for which the debtor shall be personally liable. The maintenance association, or an individual designated to act for it, may enforce this liability by appropriate civil action in a court of competent jurisdiction. After being reduced to judgment and filed with the clerk of the county commission, such liability shall be a lien on property owned by the maintenance association member and designated in the maintenance association document.

WV Legislature