

# **WEST VIRGINIA CODE: §8-31-2**

## **PART II. COMPELLING COMPLIANCE WITH FRANCHISE.**

### **§8-31-2. Compelling compliance with franchise obligations; damages; forfeiture.**

When any person has obtained or shall hereafter obtain any franchise, and the terms, conditions or manner of exercising such franchise are embodied in the ordinance of the municipality or the order of the county court granting such franchise, or are otherwise either voluntarily assumed, or by law imposed upon such person, then and in each of such cases the circuit court of the county (except so far as the powers herein conferred upon the circuit court are, by chapter twenty-four of this code, conferred upon the Public Service Commission) in which the municipality or the major portion of the territory thereof is located or for which the county court acted shall have power by mandamus to compel such person, and the successors and assigns of such person, to use and exercise such franchise in accordance with the lawful terms and conditions and in the manner so prescribed in such ordinance or order or otherwise lawfully so defined or assumed, and to do and perform each and every lawful obligation or duty attached to such franchise, whether such obligation or duty be voluntarily assumed or imposed by law.

Such mandamus may be awarded at the instance of such municipality or county, and this section shall not be construed to deprive such municipality or county, or any inhabitant thereof, of any other remedy to compel such person to comply with the terms, conditions and agreements of such franchise, or of the right to recover damages for noncompliance therewith or to affect, remove or lessen the liability of such person to forfeiture of such franchise for failure so to use and exercise such franchise.