WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED
Com. Sub. for
HOUSE BILL No. 4188

(By Delegate Vest and Manuel)

Passed March 7, 1992
In Effect Ninety Days from Passage
AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve-a, relating to authorizing the formation of maintenance associations outside of incorporated areas; authorizing maintenance associations outside of incorporated areas to assess and collect fees.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve-a, to read as follows:

ARTICLE 12A. MAINTENANCE ASSOCIATIONS.

§7-12A-1. Definitions.

1 In this article, unless a different meaning plainly is required:

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

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

9 (3) “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.

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

1 Maintenance associations may be established in any
2 county outside an incorporated area to protect the
3 health, safety and welfare of persons and the general
4 public located within the designated maintenance
5 association area. The maintenance association shall be
6 created with the objective of establishing and maintain-
7 ing improvements for the area designated in the
8 petition, which may include construction and maintain-
9 ing shared streets, drainage facilities, sidewalks, water
10 and sewer systems, signs and other improvements
11 necessary for the protection of health, safety and welfare
12 of the general public.

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

1 (a) A petition in writing may be made to the county
2 commission, that duly verifies that persons owning sixty
3 percent of the frontage of the lots on both sides of any
4 orphan road or subdivision road in any unincorporated
5 area request the approval of the formation of a main-
6 tenance association. The petition shall be accompanied
7 by the proposed maintenance association's recordable
8 documents that establish the association.

9 (b) Upon the filing of such petition and the proposed
10 maintenance association documents, the county commis-
11 sion shall fix a time and place for hearing protests and
12 shall require the petitioners to post notice of such
13 hearing in at least two conspicuous places on the public
14 road, orphan road or subdivision road of the area
15 affected, and to give notice thereof by publication of
16 such notice as a Class I legal advertisement in com-
17 pliance with the provisions of article three, chapter fifty-
18 nine of this code. The publication area for such
19 publication shall be the county in which the mainte-
nance 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 or subdivision 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 or subdivision 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.

§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.


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.

§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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st day of March 1992.

Governor