WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED

SENATE BILL NO. 372

(By Mr. Nelson and Mr. Bowen)

PASSED March 9, 1974
In Effect Ninety days from Passage

372

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3-28-74
ENROLLED

Senate Bill No. 372
(By Mr. Nelson and Mr. Poffenbarger)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three, four and five, article ten-f, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to handicapped persons and public buildings and facilities; purpose and application of article; rules and regulations; board of public buildings; enforcement; types of building subject to article.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four and five, article ten-f, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10F. HANDICAPPED PERSONS AND PUBLIC BUILDINGS AND FACILITIES.

§18-10F-1. Purpose.

1 It is hereby declared to be the public policy of this state that all public buildings, sidewalks, curbs and facilities covered by this article, as specified in section two of this article, be accessible to and functional for the physically handicapped, without loss of function, space or facilities insofar as the general public is concerned.

7 As used in this article a public building or facility is one to which the public has a general right of access and includes the ways of travel to and from the same, but does not include:

11 1. Apartment houses with less than twenty units, row houses or rooming houses;
2. Convents or monasteries;
3. Jails or other places of detention;
4. Garages, hangers or boat houses;
5. Buildings classified as hazardous occupancies;
6. Warehouses;
7. Building specifically built for field service purposes such as, but not limited to, conservation fire towers, fish hatcheries or tree nursery buildings; or
8. Residence halls at colleges or universities which have at least two other resident halls for men and two other resident halls for women so constructed as to allow physically handicapped persons reasonable means of access and use of such buildings.

(a) The provisions of this article and the reasonable rules and regulations promulgated hereunder shall apply to all temporary, emergency or permanent buildings, sidewalks, curbs and facilities to be used by the public which are constructed after the effective date of this article.
(b) Notwithstanding the provisions of subsection (a) of this section, the provisions of this article and the reasonable rules and regulations promulgated hereunder shall also be applicable to all buildings, sidewalks, curbs and facilities to be used by the public and which are under construction on the effective date of this article unless the director shall determine that the construction has reached a state where compliance is impractical.

§18-10F-3. Rules and regulations.
In order to implement the provisions of this article, the director of the division of vocational rehabilitation of the state board of education, with the approval of the state board of public buildings hereinafter created, shall promulgate reasonable rules and regulations. The director and the board in promulgating and approving such reasonable rules and regulations, shall take into account the following:
(1) Use of building, sidewalks, curbs and facilities by persons confined to wheelchairs, persons using crutches or other walking aids, persons afflicted by sight or hearing loss, persons disabled by age and any other persons whose
mobility is limited; and data shall be gathered to determine the needs of any such persons;

(2) Frequency of use by disabled persons as above enumerated; and

(3) Additional construction cost required to comply with the provisions of this article and such reasonable rules and regulations.

The director shall have the authority to except buildings, sidewalks, curbs and facilities from the provisions of this article and such reasonable rules and regulations, in whole or in part, if, in his opinion, compliance therewith would create a financial hardship, be impractical or serve no benefit.

All such reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code, and shall include, but not be limited to, provisions pertaining to the following:

(1) Reservation of parking spaces for the disabled where possible;

(2) Construction of exterior walkways, curbs and ramps;

(3) Design and construction of doorways;

(4) Design and construction of interior floors, steps, ramps and doorways;

(5) Design of and accessibility to elevators;

(6) Design and construction of toilet facilities for use by the disabled;

(7) Design and location of public telephones, water fountains and other conveniences to facilitate their use by the disabled; and

(8) Accessibility of at least one primary entrance to individuals in wheelchairs.

No rule or regulation promulgated hereunder shall require the construction of elevators in buildings or facilities not constructed in whole or in part by the use of state, county or municipal funds or the funds of any other political subdivision of this state when such buildings or facilities are less than three stories in height.
§18-10F-4. **State board of public buildings created; membership; expenses.**

There is hereby created the state board of public buildings which shall consist of five members appointed by the governor, one member to be a representative of the state building commission, one member to be a representative of a municipality, one member to be a representative of the state board of education, and one member to be an architect. Each member shall serve at the will and pleasure of the governor. The members of the board shall receive no compensation for their services on such board, but they shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the board.

§18-10F-5. **Enforcement of article.**

It shall be the duty of the director to enforce the provisions of this article and all reasonable rules and regulations promulgated hereunder, and it shall be the duty of the state, any county, municipality or other political subdivision thereof, or any department, agency, commission, board, bureau or individual responsible for the construction of any public building, sidewalk, curb or facility to comply with the provisions of this article and all such reasonable rules and regulations. Whenever the director ascertains that any such public building, sidewalk, curb or facility is about to be constructed or is under construction (which construction began after the effective date of this article) in violation of the provisions of this article or any such reasonable rules and regulations, he may petition the circuit court of the county wherein the construction is to be or is taking place for an order to compel compliance with the provisions of this article and such reasonable rules and regulations, and the court may compel compliance unless such court finds that compliance would create a financial hardship, be impractical or serve no benefit.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker—House of Delegates

The within approved this the 26th day of March, 1974.

Governor