

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-11-80

Time 2:30 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980



ENROLLED

Committee Substitute for

SENATE BILL NO. 425

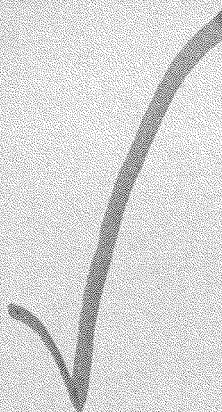
(By Mr. *Senator Richard Spenser*)



PASSED March 4, 1980

In Effect ninety days from Passage

No. 425



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 425
(MR. HANLON, *original sponsor*)

[Passed March 4, 1980; in effect ninety days from passage.]

AN ACT to amend article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fifty-b, and to amend chapter twenty-seven of said code by adding thereto a new article, designated article seventeen, relating to planning and zoning for group residential facilities; definitions; permitted use; license from director of health; application; regulation; revocation of licenses.

Be it enacted by the Legislature of West Virginia:

That article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fifty-b; and that chapter twenty-seven of said code be amended by adding thereto a new article, designated article seventeen, to read as follows:

**CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES
AND COUNTIES: INTERGOVERNMENTAL RELATIONS.**

ARTICLE 24. PLANNING AND ZONING.

§8-24-50b. Permitted use for group residential facility.

1 A group residential facility as defined in article seven-
2 teen, chapter twenty-seven, shall be a permitted resi-
3 dential use of property for the purposes of zoning and
4 shall be a permitted use in all zones or districts ex-

5 cept those limited to single-family or duplex-family
6 residences. No county commission, governing board
7 of a municipality, or planning commission shall re-
8 quire a group residential facility, its owner or opera-
9 tor, to obtain a conditional use permit, special use
10 permit, special exception or variance for location of such
11 facility in any zone or district except those limited to
12 single-family or duplex-family residences.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.

§27-17-1. Definitions.

1 "Developmental disability" means a chronic disability
2 of a person which: (1) is attributable to a mental or
3 physical impairment or combination of mental and
4 physical impairments; (2) is likely to continue indefi-
5 nitely; (3) results in substantial functional limitations in
6 self-direction, capacity for independent living, or eco-
7 nomic self-efficiency; and (4) reflects the person's need
8 for a combination and sequence of special, interdiscipli-
9 nary, or generic care, treatment, or other services which
10 are of lifelong or extended duration and are individually
11 planned and coordinated.

12 "Group residential facility" means a facility which: (1)
13 provides residential services and supervision for individ-
14 uals who are developmentally disabled; (2) is occupied
15 as a residence by not more than eight individuals described
16 in subparagraph (1) and not more than three supervisors;
17 (3) is licensed by the department of health; and, (4) com-
18 plies with the state fire code and regulations of the state
19 fire commission for residential facilities.

§27-17-2. Permitted use of group residential facilities; restric- tions.

1 A group residential facility shall be a permitted resi-
2 dential use of property for the purposes of zoning and
3 shall be a permitted use in all zones or districts except
4 those limited to single-family or duplex-family residences.
5 No county commission, governing board of a munici-
6 pality, or planning commission shall require a group

7 residential facility, its owner or operator, to obtain a con-
8 ditional use permit, special use permit, special exception
9 or variance for location of such facility in any zone or
10 district except those limited to single-family or duplex-
11 family residences: *Provided*, That no more than one such
12 facility may be located on the same block face in any
13 municipality, or within twelve hundred feet, measured
14 from front door to front door, in any area not within a
15 municipality.

**§27-17-3. License from director of health; application; regu-
lations; revocation.**

1 No group residential facility shall be established, main-
2 tained or operated unless a license therefor shall be first
3 obtained from the director of health. The application for
4 such license shall contain such data and facts as the
5 director may require. The director may promulgate rea-
6 sonable regulations for the conduct of such facilities, shall
7 have the authority to investigate and inspect any such
8 facility, and may revoke the license of any such facility
9 for good cause after notice and hearing.

§27-17-4. Exclusion by private agreement void.

1 Any restriction, reservation, condition, exception, or
2 covenant in any subdivision plan, deed, or other instru-
3 ment of or pertaining to the transfer, sale, lease, or use of
4 property which would permit residential use of property
5 but prohibit the use of such property as a group residen-
6 tial facility shall, to the extent of such prohibition, be void
7 as against the public policy of this state and shall be given
8 no legal or equitable force or effect.

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

James L. Davis
Chairman Senate Committee

Clarence C. Christman Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Judd E. Wick
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. B. ...
President of the Senate

Clayton M. Lee Jr.
Speaker House of Delegates

The within *is approved* this the *11*

day of *March*, 1980.

John R. ...
Governor

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OFFICE OF THE GOVERNOR

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