WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
Committee Substitute for
SENATE BILL NO. 162

(By Mr. [Signature])

PASSED April 8, 1985
In Effect [Signature]
AN ACT to amend and reenact section fifty-b, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article seventeen, chapter twenty-seven of said code, all relating to group residential facilities; permitted use; restrictions; health director or commissioner of department of human services to give notice and hold hearings upon objection of request upon application for operation of group residential facility in area limited to single-family residences; board of health regulations; reconsiderations.

Be it enacted by the Legislature of West Virginia:

That section fifty-b, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article seventeen, chapter twenty-seven of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 24. PLANNING AND ZONING.

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

1 (a) A group residential facility as defined in article
seventeen, chapter twenty-seven of this code, shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts. No county commission, governing board of a municipality or planning commission, shall require a group residential facility, its owner or operator, to obtain a conditional use permit, special use permit, special exception or variance for location of such facility in any zone or district or discriminate in regard to housing in any other regard: Provided, That a county commission, governing board of a municipality or planning commission may require a group residential facility, its owner or operator, to obtain a conditional use permit, special use permit, special exception or variance if the home is to be in a zone or district restricted to single-family residences and is to be occupied by more than six individuals who are developmentally disabled and three supervisors, or is to be occupied by the behaviorally disabled within a zoning district or zone restricted solely to single-family residences with no allowance for duplexes, apartments or other multi-family use of a single parcel of property.

(b) When an application to operate such a group residential facility in a district or zone limited to single-family residences is submitted to the department of health or the department of human services for the issuance of a license, as required by the provisions of said article seventeen, chapter twenty-seven, upon receipt of said application, the director of the department of health or the commissioner of the department of human services shall give written notice of such application to the county commission, governing board of a municipality, or planning commission within whose jurisdiction the proposed facility lies. The county commission, governing board of a municipality or planning commission shall have thirty days in which to file objections or request a hearing with the department of health or the department of human services. Upon the filing of such objections or hearing request, the director of the department of health or the commissioner of the department of human services shall hold a hearing. The state board of health shall promulgate regulations governing the conduct of such hearings and applicable standards pursuant to chapter twenty-nine-a of this code:
Provided, That the owner or operator of such group residential facility shall, in all cases of such facilities located within zoning districts or zones, submit an application for any required zoning or occupancy permit allowed under provisions of this section to the appropriate zoning permit agency on or before the date of submission of the application to the department of health or the department of human services.

(c) The provisions of this section shall not exempt any such residence from the structural requirements of any bona fide historic preservation district.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.

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

(a) A group residential facility shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts. No county commission, governing board of a municipality or planning commission shall require a group residential facility, its owner or operator, to obtain a conditional use permit, special use permit, special exception or variance for location of such facility in any zone or district: Provided, That no more than one such facility may be located on the same block face in any municipality, or within twelve hundred feet, measured from front door to front door, in any area not within a municipality: Provided, however, That the owner of operator of such group residential facility shall, in all cases of such facilities located within zoning districts or zones, submit an application for any required zoning or occupancy permit allowed under provisions of this section to the appropriate zoning permit agency on or before the date of submission of the application to the department of health or the department of human services.

(b) Any resident of the contiguous area of a zoning district limited to single-family or duplex-family residences in which a group residential facility is located, may file a complaint with the director of the department of health or the commissioner of the department of human services, as applicable. If the complaint states specific
conduct on the part of an individual placed in that facility
or other specific facts regarding such individual which
adversely affect public health and safety, upon the receipt
of such a complaint the director or commissioner shall
cause to be made an investigation of the facts alleged. If the
director or commissioner determines that the alleged facts
may have a substantial basis, the director or commissioner
shall cause a full reconsideration of the decision to place
that individual in that group residential facility in light of
those facts. The results of the reconsideration shall be given
to the complainant in writing with an explanation of the
reason for the decision: Provided, That this requirement
shall not be deemed to authorize the disclosure of
information that the director or commissioner would not
otherwise disclose without written release by the individual
unless a release for this purpose is obtained.
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 ........... this the ....... day of .......... 1985.

Governor