

No. 162 ✓

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985



ENROLLED

Committee Substitute for

SENATE BILL NO. 162

(By Mr. Kempson & Mr. Halliday)



PASSED April 13 1985

In Effect ninety days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 162

(MR. KAUFMAN AND MR. HOLLIDAY, *original sponsors*)

(Originating in the Committee on Health and Human Resources.)

[Passed April 13, 1985; in effect ninety days from passage.]

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

2 seventeen, chapter twenty-seven of this code, shall be a
3 permitted residential use of property for the purposes of
4 zoning and shall be a permitted use in all zones or districts.
5 No county commission, governing board of a municipality
6 or planning commission, shall require a group residential
7 facility, its owner or operator, to obtain a conditional use
8 permit, special use permit, special exception or variance for
9 location of such facility in any zone or district or
10 discriminate in regard to housing in any other regard:
11 *Provided*, That a county commission, governing board of a
12 municipality or planning commission may require a group
13 residential facility, its owner or operator, to obtain a
14 conditional use permit, special use permit, special
15 exception or variance if the home is to be in a zone or district
16 restricted to single-family residences and is to be occupied
17 by more than six individuals who are developmentally
18 disabled and three supervisors, or is to be occupied by the
19 behaviorally disabled within a zoning district or zone
20 restricted solely to single-family residences with no
21 allowance for duplexes, apartments or other multi-family
22 use of a single parcel of property.

23 (b) When an application to operate such a group
24 residential facility in a district or zone limited to single-
25 family residences is submitted to the department of health
26 or the department of human services for the issuance of a
27 license, as required by the provisions of said article
28 seventeen, chapter twenty-seven, upon receipt of said
29 application, the director of the department of health or the
30 commissioner of the department of human services shall
31 give written notice of such application to the county
32 commission, governing board of a municipality, or planning
33 commission within whose jurisdiction the proposed facility
34 lies. The county commission, governing board of a
35 municipality or planning commission shall have thirty days
36 in which to file objections or request a hearing with the
37 department of health or the department of human services.
38 Upon the filing of such objections or hearing request, the
39 director of the department of health or the commissioner of
40 the department of human services shall hold a hearing. The
41 state board of health shall promulgate regulations
42 governing the conduct of such hearings and applicable
43 standards pursuant to chapter twenty-nine-a of this code:

44 *Provided*, That the owner or operator of such group
45 residential facility shall, in all cases of such facilities
46 located within zoning districts or zones, submit an
47 application for any required zoning or occupancy permit
48 allowed under provisions of this section to the appropriate
49 zoning permit agency on or before the date of submission of
50 the application to the department of health or the
51 department of human services.

52 (c) The provisions of this section shall not exempt any
53 such residence from the structural requirements of any
54 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.

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

20 (b) Any resident of the contiguous area of a zoning
21 district limited to single-family or duplex-family
22 residences in which a group residential facility is located,
23 may file a complaint with the director of the department of
24 health or the commissioner of the department of human
25 services, as applicable. If the complaint states specific

26 conduct on the part of an individual placed in that facility
27 or other specific facts regarding such individual which
28 adversely affect public health and safety, upon the receipt
29 of such a complaint the director or commissioner shall
30 cause to be made an investigation of the facts alleged. If the
31 director or commissioner determines that the alleged facts
32 may have a substantial basis, the director or commissioner
33 shall cause a full reconsideration of the decision to place
34 that individual in that group residential facility in light of
35 those facts. The results of the reconsideration shall be given
36 to the complainant in writing with an explanation of the
37 reason for the decision: *Provided*, That this requirement
38 shall not be deemed to authorize the disclosure of
39 information that the director or commissioner would not
40 otherwise disclose without written release by the individual
41 unless a release for this purpose is obtained.

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

Harold R. Stone
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Isidore C. Hillis
.....
Clerk of the Senate

Donald G. Kepp
.....
Clerk of the House of Delegates

Don Tankership
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *approved* this the *2nd* day of *May*, 1985.

Anna A. Prange
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:32 p.m.