WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 388

(By Senators Tomblin, Mr. President, and Rockefeller, by Request of the Executive)

PASSED March 12, 1998

In Effect NINETY Days From Passage
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[Passed March 12, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact article seventeen, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting housing discrimination against individuals with disabilities; amending definitions and defining group residential homes; eliminating special zoning requirements for group residential facilities and group residential homes; eliminating the complaint process for residents of a contiguous area of a zoning district in which a group residential facility is located; and providing that group residential homes are not subject to licensure.

Be it enacted by the Legislature of West Virginia:
That article seventeen, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 17. GROUP RESIDENTIAL FACILITIES.**

**§27-17-1. Definitions.**

1. (a) "Developmental disability" means a chronic disability of a person which: (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) is likely to continue indefinitely; (3) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency; and (4) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

2. (b) "Behavioral disability" means a disability of a person which: (1) Is attributable to severe or persistent mental illness, emotional disorder or chemical dependency; and (2) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency.

3. (c) "Group residential facility" means a facility which is owned or leased by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors, or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the department of health or the division of human services; and (4) complies with the state fire commission for residential facilities.

4. (d) "Group residential home" means a building owned or
leased by developmentally disabled or behaviorally
disabled persons for purposes of establishing a personal
residence. A behavioral health service provider may not
lease a building to such persons if the provider is provid-
ing services to the persons without a license as provided
for in this article.

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

1 Both a group residential facility and a group residential
home 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.

§27-17-3. License from director of health; application; regula-
tions; revocation.

1 (a) No group residential facility shall be established,
maintained or operated unless a license therefor shall be
first obtained from the director of health, except that a
group residential facility for behaviorally disabled
juveniles shall be deemed to satisfy all requirements of
this section by obtaining a license from the commissioner
of human services. The application for such license shall
contain such data and facts as the director may require.
The director may promulgate reasonable regulations for
the conduct of such facilities, including, but not limited to,
a statement of the rights of patients in group residential
facilities for the mentally and physically impaired to
ensure the adequate care and supervision of such patients,
and shall have the authority to investigate and inspect any
such facility, and may revoke the license of any such
facility for good cause after notice and hearing.
§27-17-4. Exclusion by private agreement void.

Any restriction, reservation, condition, exception or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease or use of property which would permit residential use of property but prohibit the use of such property as a group residential facility or group residential home shall, to the extent of such prohibition, be void as against the public policy of this state and shall be given no legal or equitable force or effect.
That 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 2nd day of April, 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date. 5/24/98
Time. 3:07 PM