

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED

Committee Substitute for
SENATE BILL NO. 198

(By Senator Fanning, et al)

PASSED April 9, 2005

In Effect 90 days from Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 198

(SENATORS FANNING, HUNTER, JENKINS, OLIVERIO, MCKENZIE,
YODER, UNGER AND BARNES, *original sponsors*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-3-16c, relating to establishing safety standards for bed and breakfast establishments; providing findings relating to the need for special fire code standards for bed and breakfasts; defining the term “bed and breakfast establishment”; providing exemption from certain fire code standards; establishing fire safety standards for bed and breakfasts; authorizing the Fire Commission to promulgate rules; authorizing variance from certain requirements; and authorizing Division of Culture and History to provide recommendations regarding historical preservation of structures.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §29-3-16c, to read as follows:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-16c. Safety standards for bed and breakfast establishments; findings.

1 (a) *Findings.* – Bed and breakfast establishments provide
2 a unique and important contribution to the state, allowing
3 visitors the opportunity to enjoy many of the aspects of
4 our communities and state not available at hotels and
5 motels and often provide vacationers access to overnight
6 accommodation in areas of this state that would not
7 otherwise be available. These operations continue to grow
8 in number and importance in our state's economy and
9 must be promoted and encouraged by state and local
10 government. Most of these facilities are older residences
11 being converted to this use, and in many cases have
12 architectural and historical significance, and, as with most
13 small businesses, are begun with limited capital available
14 for investment. Any fire safety code standards applicable
15 to these facilities must be sensitive to this distinction and
16 avoid placing a large financial burden on persons operat-
17 ing or planning to operate these facilities. Further, the
18 personal safety of those who live in and visit these facili-
19 ties is of paramount importance and requires that consid-
20 eration be made to assure that adequate safety require-
21 ments are placed on these facilities to provide for the
22 safety of visitors, residents and, in an emergency, respond-
23 ing firefighters and rescue workers.

24 (b) *Definition.* – For the purposes of this section, the
25 term “bed and breakfast establishment” means a building
26 occupied as a one-family dwelling unit that provides
27 sleeping accommodations and breakfast to transient guests
28 for a single fee and does not offer more than six guest
29 rooms to no more than twelve guests.

30 (c) *Fire code standards.* – Notwithstanding any provision
31 of this code to the contrary, every bed and breakfast
32 establishment shall be exempt from provisions of fire
33 safety code requirements which are contrary to the
34 following standards:

35 (1) Each bed and breakfast shall have operational smoke
36 alarms in all common areas, guest rooms and hallways and
37 heat detectors as otherwise required by this code or rule of
38 the Fire Commission. Battery-powered smoke alarms shall
39 be permitted where the establishment has demonstrated
40 that the testing, maintenance and battery replacement
41 procedures will ensure reliable power to the smoke alarms.
42 Notwithstanding any provision of this code to the con-
43 trary, no smoking will be allowed inside a bed and break-
44 fast establishment.

45 (2) Each bed and breakfast shall have operational hard-
46 wired, battery-powered or plug-in emergency lighting that
47 indicate available means of egress. Battery-powered or
48 plug-in emergency lighting devices shall be permitted
49 where the establishment has demonstrated that the testing,
50 maintenance and battery replacement procedures will
51 ensure reliable power to the emergency lighting devices.

52 (3) Each guest floor shall have a primary and a second-
53 ary means of egress. A door leading directly from a
54 guestroom outside the building with access to grade, or a
55 stairway which is covered or enclosed, or a covered
56 balcony or deck with a stairway to grade are acceptable
57 secondary means of egress. A bed and breakfast with
58 third-floor guest rooms must have an accessible second
59 stairway leading from the third floor to grade. Any bed
60 and breakfast establishment with a sprinkler system which
61 otherwise meets the requirements of this section and the
62 state fire safety and building codes is exempt from the
63 requirement of a secondary means of egress. A bed and
64 breakfast establishment which offers three or fewer guest
65 rooms on the first or second floor only, and accommodates

66 no more than six guest occupants at one time, is exempted
67 from the secondary means of egress requirement;

68 (4) The state Fire Commission shall permit bed and
69 breakfast establishments that cannot readily comply with
70 the requirements of a legislative rule, which may mandate
71 the installation of a secondary means of escape or a
72 sprinkler system, one year per floor of the establishment to
73 comply with the requirements.

74 (5) All other provisions of the state fire safety code not
75 inconsistent with this section and rules promulgated
76 pursuant to subsection (d) of this section are applicable to
77 bed and breakfast establishments.

78 (d) *Legislative rules.* – The state Fire Commission shall
79 promulgate or amend an existing legislative rule, in
80 accordance with the provisions of article three, chapter
81 twenty-nine-a of this code, to effectuate the provisions of
82 this section. The rule shall include a mechanism for the
83 Fire Commission to grant individual variances to bed and
84 breakfast establishments which cannot otherwise meet
85 provisions of the state fire safety code due to the historic
86 and architectural significance of the establishment with
87 due consideration of the economic limitations inherent in
88 the operation of this type of small business.

89 (e) *Historic preservation review.* – The owner of a bed
90 and breakfast may request the historical preservation
91 section of the Division of Culture and History, pursuant to
92 section eight, article one of this chapter, to consult with
93 the owner and provide a recommendation to the Fire
94 Commission regarding the historic character of the
95 structures used or proposed to be used as a bed and
96 breakfast and any objections or concerns regarding any
97 renovations or other changes required by the Fire Commis-
98 sion or Fire Marshal. If an appeal regarding a decision
99 made by the Fire Marshal is made to the Commission as
100 provided by section eighteen of this article, the Commis-
101 sion shall consider the recommendation of the historical

102 preservation section when making a determination
103 regarding the variance as provided for in subsection (d) of
104 this section.

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

Chandy White
.....
Chairman Senate Committee

L. Kadan Brown
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell Elshie
.....
Clerk of the Senate

Gregory D. Bond
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert S. S.
.....
Speaker House of Delegates

The within is approved this the *3rd*
Day of *May*, 2005.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2005

Time 2:00pm