ENROLLED
Committee Substitute for
SENATE BILL NO. 198

(By Senator Fanning, et al.)

PASSED April 9, 2005

In Effect 90 days from Passage
ENROLLED

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.

(a) Findings. — Bed and breakfast establishments provide a unique and important contribution to the state, allowing visitors the opportunity to enjoy many of the aspects of our communities and state not available at hotels and motels and often provide vacationers access to overnight accommodation in areas of this state that would not otherwise be available. These operations continue to grow in number and importance in our state's economy and must be promoted and encouraged by state and local government. Most of these facilities are older residences being converted to this use, and in many cases have architectural and historical significance, and, as with most small businesses, are begun with limited capital available for investment. Any fire safety code standards applicable to these facilities must be sensitive to this distinction and avoid placing a large financial burden on persons operating or planning to operate these facilities. Further, the personal safety of those who live in and visit these facilities is of paramount importance and requires that consideration be made to assure that adequate safety requirements are placed on these facilities to provide for the safety of visitors, residents and, in an emergency, responding firefighters and rescue workers.

(b) Definition. — For the purposes of this section, the term “bed and breakfast establishment” means a building occupied as a one-family dwelling unit that provides sleeping accommodations and breakfast to transient guests for a single fee and does not offer more than six guest rooms to no more than twelve guests.
(c) **Fire code standards.** – Notwithstanding any provision of this code to the contrary, every bed and breakfast establishment shall be exempt from provisions of fire safety code requirements which are contrary to the following standards:

1. Each bed and breakfast shall have operational smoke alarms in all common areas, guest rooms and hallways and heat detectors as otherwise required by this code or rule of the Fire Commission. Battery-powered smoke alarms shall be permitted where the establishment has demonstrated that the testing, maintenance and battery replacement procedures will ensure reliable power to the smoke alarms. Notwithstanding any provision of this code to the contrary, no smoking will be allowed inside a bed and breakfast establishment.

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

3. Each guest floor shall have a primary and a secondary means of egress. A door leading directly from a guestroom outside the building with access to grade, or a stairway which is covered or enclosed, or a covered balcony or deck with a stairway to grade are acceptable secondary means of egress. A bed and breakfast with third-floor guest rooms must have an accessible second stairway leading from the third floor to grade. Any bed and breakfast establishment with a sprinkler system which otherwise meets the requirements of this section and the state fire safety and building codes is exempt from the requirement of a secondary means of egress. A bed and breakfast establishment which offers three or fewer guest rooms on the first or second floor only, and accommodates
no more than six guest occupants at one time, is exempted from the secondary means of egress requirement;

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

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

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

(e) Historic preservation review. – The owner of a bed and breakfast may request the historical preservation section of the Division of Culture and History, pursuant to section eight, article one of this chapter, to consult with the owner and provide a recommendation to the Fire Commission regarding the historic character of the structures used or proposed to be used as a bed and breakfast and any objections or concerns regarding any renovations or other changes required by the Fire Commission or Fire Marshal. If an appeal regarding a decision made by the Fire Marshal is made to the Commission as provided by section eighteen of this article, the Commission shall consider the recommendation of the historical
preservation section when making a determination regarding the variance as provided for in subsection (d) of this section.
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 is approved... this the 3rd...
Day of... May... 2005.

Governor
PRESENTED TO THE
GOVERNOR

APR 27 2005

Time 2:00 pm