WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 59

(By Senators Prezioso and McCabe)

[Passed March 9, 2007; in effect ninety days from passage.]
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(BY SENATORS PREZIOSO AND MCCABE)

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AN ACT to amend and reenact §5-11A-3 and §5-11A-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §21-11-3 of said code; and to amend said code by adding thereto a new section, designated §21-11-10a, all relating to defining "universal design"; providing immunity from civil damages to a worker, contractor, engineer or architect who, in good faith, provides services for materials, without remuneration, to build or install basic universal design features in accordance with applicable codes and state and federal laws; and providing for a standard form informational list of basic universal design features to be provided to a future buyer of any proposed residential housing in the state by the licensed contractor.

Be it enacted by the Legislature of West Virginia:

That §5-11A-3 and §5-11A-3a of the Code of West Virginia,
1931, as amended, be amended and reenacted; that §21-11-3 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §21-11-10a, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 11A. WEST VIRGINIA FAIR HOUSING ACT.


As used in this article:

(a) "Commission" means the West Virginia Human Rights Commission;

(b) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence or sleeping place by one or more persons or families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

(c) "Family" includes a single individual;

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries;

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant;

(f) "Discriminatory housing practice" means an act that is unlawful under section five, six, seven or
(g) "Handicap" means, with respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substances Act, Title 21, United States Code, Section 802;

(h) "Aggrieved person" includes any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur;

(i) "Complainant" means the person, including the commission, who files a complaint under section eleven of this article;

(j) "Familial status" means:

(1) One or more individuals who have not attained the age of eighteen years being domiciled with:

(A) A parent or another person having legal custody of such individual or individuals; or

(B) The designee of such parent or other person having such custody with the written permission of such parent or other person; or

(2) Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;
(k) "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of such complaint through informal negotiations involving the aggrieved person, the respondent and the commission;

(l) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation;

(m) "Respondent" means:

(1) The person or other entity accused in a complaint of an unfair housing practice; and

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under subsection (a), section eleven of this article;

(n) The term "rooming house" means a house or building where there are one or more bedrooms which the proprietor can spare for the purpose of giving lodgings to such persons as he or she chooses to receive; and

(o) The term "basic universal design" means the design of products and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialization.

§5-11A-3a. Volunteer services or materials to build or install basic universal design features; workers, contractors, engineers, architects; immunity from civil liability.

Any person, including a worker, contractor, engineer or architect, who in good faith provides services or materials, without remuneration, to build or install basic universal design features as set forth in section ten-a, article eleven, chapter twenty-one of this code may not be liable for any civil damages as the result of any act or omission in providing such services or
Provided, That the basic universal design feature or features shall be built or constructed in accordance with applicable state and federal laws and applicable building codes.

CHAPTER 21. LABOR

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.


(a) "Commissioner" means the Commissioner of the Division of Labor.

(b) "Board" means the West Virginia Contractor Licensing Board.

(c) "Contractor" means a person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is two thousand five hundred dollars or more.

Contractor includes a construction manager who performs management and counseling services for a construction project for a professional fee.

Contractor does not include:

(1) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project;

(2) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential
purposes;

(3) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work;

(4) A pest control operator licensed under the provisions of section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or

(5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this subsection and who employs full time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of such corporation, partnership or sole proprietorship shall also be exempt from the requirements of this article.

(d) "Electrical contractor" means a person who engages in the business of contracting to install, erect, repair or alter electrical equipment for the generation, transmission or utilization of electrical energy.

(e) "General building contractor" means a person whose principal business is in connection with any structures built, being built or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in the construction the use of more than two contractor classifications, or a person who supervises the whole or any part of such construction.
(f) "General engineering contractor" means a person whose principal business is in connection with public or private works projects, including, but not limited to, one or more of the following: Irrigation, drainage and water supply projects; electrical generation projects; swimming pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and other liquid or gaseous substances; refineries; chemical plants and other industrial plants requiring a specialized engineering knowledge and skill; piers and foundations; and structures or work incidental thereto.

(g) "Heating, ventilating and cooling contractor" means a person who engages in the business of contracting to install, erect, repair, service or alter heating, ventilating and air conditioning equipment or systems to heat, cool or ventilate residential and commercial structures.

(h) "License" means a license to engage in business in this state as a contractor in one of the classifications set out in this article.

(i) "Multifamily contractor" means a person who is engaged in construction, repair or improvement of a multifamily residential structure.

(j) "Person" includes an individual, firm, sole proprietorship, partnership, corporation, association or other entity engaged in the undertaking of construction projects or any combination thereof.

(k) "Piping contractor" means a person whose principal business is the installation of process, power plant, air, oil, gasoline, chemical or other kinds of piping; and boilers and pressure vessels using joining methods of thread, weld, solvent weld or mechanical methods.

(l) "Plumbing contractor" means a person whose principal business is the installation, maintenance,
extension and alteration of piping, plumbing fixtures, plumbing appliances and plumbing appurtenances, venting systems and public or private water supply systems within or adjacent to any building or structure; included in this definition is installation of gas piping, chilled water piping in connection with refrigeration processes and comfort cooling, hot water piping in connection with building heating and piping for stand pipes.

(m) "Residential contractor" means a person whose principal business is in connection with construction, repair or improvement of real property used as, or intended to be used for, residential occupancy.

(n) "Specialty contractor" means a person who engages in specialty contracting services which do not substantially fall within the scope of any contractor classification as set out herein.

(o) "Residential occupancy" means occupancy of a structure for residential purposes for periods greater than thirty consecutive calendar days.

(p) "Residential structure" means a building or structure used or intended to be used for residential occupancy, together with related facilities appurtenant to the premises as an adjunct of residential occupancy, which contains not more than three distinct floors which are above grade in any structural unit regardless of whether the building or structure is designed and constructed for one or more living units. Dormitories, hotels, motels or other transient lodging units are not residential structures.

(q) "Subcontractor" means a person who performs a portion of a project undertaken by a principal or general contractor or another subcontractor.

(r) "Division" means the Division of Labor.

(s) "Cease and desist order" means an order issued by the commissioner pursuant to the provisions of this
The term “basic universal design” means the design of products and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialization.

§21-11-10a. Informational list for basic universal design features; penalties.

(a) Ninety days after the Contractor Licensing Board certifies and makes available to the general public the standard form informational list of basic universal design features pursuant to this section, a licensed contractor of any proposed residential housing in the state shall provide to the buyer an informational list of basic universal design features that would make the home entrance, interior routes of travel, the kitchen and the bathroom or bathrooms universally accessible. Basic universal design features are to include, but not be limited to, the following:

(1) At least one nonstep entrance into the dwelling;

(2) All doors on the entry-level floor, including bathrooms, have a minimum of thirty-six inches;

(3) At least one accessible bathroom on the entry-level floor with ample maneuvering space;

(4) Kitchen, general living space and one room capable of conversion into a bedroom, all with ample maneuvering space, on the entry-level floor; and

(5) Any other external or internal feature requested at a reasonable time by the buyer and agreed to by the seller.

(b) If a buyer is interested in a specific informational feature on the list established by subsection (a) of this section, the seller or builder upon request of the buyer shall indicate whether the feature is standard, limited, optional or not available and, if available, shall further
28 indicate the cost of such a feature to the buyer.

29 (c) The standard form informational list of basic
30 universal design features shall be certified and made
31 available for reproduction by the board, in accordance
32 with the provisions of subsection (a) of this section,
33 based on mutual recommendation of the board, the
34 American Institute of Architects-West Virginia, the
35 Home Builders Association of West Virginia and the
36 West Virginia Center for Excellence in Disabilities.
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 4th Day of April, 2007.

Governor
PRESENTED TO THE GOVERNOR

APR 03 2007

Time 1:35p