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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 59**

(BY SENATORS PREZIOSO AND McCABE)

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[Passed March 9, 2007; in effect ninety days from passage.]

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**Senate Bill No. 59**

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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.**

**§5-11A-3. Definitions.**

As used in this article:

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

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

10 (c) "Family" includes a single individual;

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

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

20 (f) "Discriminatory housing practice" means an act  
21 that is unlawful under section five, six, seven or

22 nineteen of this article;

23 (g) "Handicap" means, with respect to a person:

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

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

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

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

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

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

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

41 (j) "Familial status" means:

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

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

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

49 (2) Any person who is pregnant or is in the process of  
50 securing legal custody of any individual who has not  
51 attained the age of eighteen years;

52 (k) "Conciliation" means the attempted resolution of  
53 issues raised by a complaint or by the investigation of  
54 such complaint through informal negotiations involving  
55 the aggrieved person, the respondent and the  
56 commission;

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

60 (m) "Respondent" means:

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

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

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

72 (o) The term "basic universal design" means the  
73 design of products and environments to be useable by  
74 all people, to the greatest extent possible, without the  
75 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.**

1 Any person, including a worker, contractor, engineer  
2 or architect, who in good faith provides services or  
3 materials, without remuneration, to build or install  
4 basic universal design features as set forth in section  
5 ten-a, article eleven, chapter twenty-one of this code  
6 may not be liable for any civil damages as the result of  
7 any act or omission in providing such services or

8 materials: *Provided*, That the basic universal design  
9 feature or features shall be built or constructed in  
10 accordance with applicable state and federal laws and  
11 applicable building codes.

## CHAPTER 21. LABOR

### ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

#### §21-11-3. Definitions.

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

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

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

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

20 Contractor does not include:

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

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

27 purposes;

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

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

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

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

56 (e) "General building contractor" means a person  
57 whose principal business is in connection with any  
58 structures built, being built or to be built for the  
59 support, shelter and enclosure of persons, animals,  
60 chattels or movable property of any kind, requiring in  
61 the construction the use of more than two contractor  
62 classifications, or a person who supervises the whole or  
63 any part of such construction.

64 (f) "General engineering contractor" means a person  
65 whose principal business is in connection with public or  
66 private works projects, including, but not limited to, one  
67 or more of the following: Irrigation, drainage and water  
68 supply projects; electrical generation projects;  
69 swimming pools; flood control; harbors; railroads;  
70 highways; tunnels; airports and airways; sewers and  
71 sewage disposal systems; bridges; inland waterways;  
72 pipelines for transmission of petroleum and other liquid  
73 or gaseous substances; refineries; chemical plants and  
74 other industrial plants requiring a specialized  
75 engineering knowledge and skill; piers and foundations;  
76 and structures or work incidental thereto.

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

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

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

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

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

99 (l) "Plumbing contractor" means a person whose  
100 principal business is the installation, maintenance,

101 extension and alteration of piping, plumbing fixtures,  
102 plumbing appliances and plumbing appurtenances,  
103 venting systems and public or private water supply  
104 systems within or adjacent to any building or structure;  
105 included in this definition is installation of gas piping,  
106 chilled water piping in connection with refrigeration  
107 processes and comfort cooling, hot water piping in  
108 connection with building heating and piping for stand  
109 pipes.

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

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

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

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

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

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

135 (s) "Cease and desist order" means an order issued by  
136 the commissioner pursuant to the provisions of this

137 article.

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

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

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

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

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

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

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

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

23 (b) If a buyer is interested in a specific informational  
24 feature on the list established by subsection (a) of this  
25 section, the seller or builder upon request of the buyer  
26 shall indicate whether the feature is standard, limited,  
27 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.

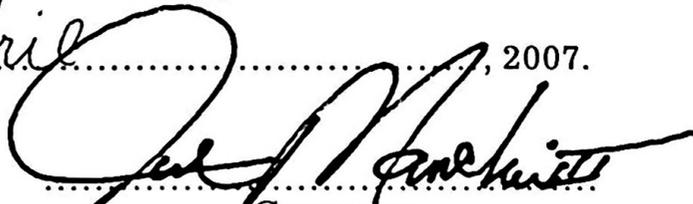
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within ..... is approved ..... this  
the 4<sup>th</sup> Day of April ..... 2007.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:35pm