

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2011

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 439

(SENATORS PREZIOSO, YOST, BEACH, BARNES, SYPOLT,
FANNING, TUCKER AND PLYMALE, ORIGINAL SPONSORS)

[PASSED MARCH 12, 2011; IN EFFECT FROM PASSAGE.]

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FANNING, TUCKER AND PLYMALE, *original sponsors*)

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact §21-9-11a of the Code of West Virginia, 1931, as amended, relating to clarifying that the filing of a complaint with the state regulatory board is a prerequisite for the filing of a lawsuit.

Be it enacted by the Legislature of West Virginia:

That §21-9-11a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

§21-9-11a. Inspection of manufactured housing; deferral period for inspection and administrative remedies; notification to consumers of rights.

- 1 (a) Inspection of manufactured housing. When a purchaser
- 2 or owner of a manufactured home files a written complaint

3 with the board alleging defects in the manufacture, construc-
4 tion or installation of the manufactured home, and any
5 additional information the board considers necessary to
6 conduct an investigation, the board shall, within sixty days,
7 to the extent feasible, cause an inspection of the manufac-
8 tured home by one or more of its employees or person
9 authorized and supervised by the board. The board shall
10 provide the consumer a written report indicating whether
11 the defects alleged by the complaint constitute violations of
12 federal or state statutory or regulatory standards or good and
13 customary manufacturing standards in the construction,
14 design, manufacture or installation of the manufactured
15 home. If the report indicates that the alleged defects consti-
16 tute a violation, the board shall take such further adminis-
17 trative action as provided for in this article including, but
18 not limited to, ordering the manufacturer, dealer or contrac-
19 tor to correct any defects.

20 (b) Period of exclusive administrative remedy. No pur-
21 chaser or owner of a manufactured home may file a civil
22 action seeking monetary recovery or damages for claims
23 related to or arising out of the manufacture, acquisition, sale
24 or installation of the manufactured home until the expiration
25 of ninety days after the consumer or owner has filed a
26 written complaint with the board. The board has a period of
27 ninety days, commencing with the date of filing of the
28 complaint, to investigate and take administrative action to
29 order the correction of defects in the manufacture or instal-
30 lation of a manufactured home. This period of exclusive
31 administrative authority may not prohibit the purchaser or
32 owner of the manufactured home from seeking equitable
33 relief in a court of competent jurisdiction to prevent or
34 address an immediate risk of personal injury or property
35 damage. The filing of a complaint under this article shall toll
36 any applicable statutes of limitation during the ninety-day
37 period but only if the applicable limitation period has not
38 expired prior to the filing of the complaint.

39 (c) Notice of consumer rights. Every dealer or contractor
40 who moves homes from one place to another shall provide

41 written notification to every purchaser of a manufactured
42 home of the availability of administrative assistance from the
43 board in investigating and ordering corrections of any defect
44 in the manufacture or installation of a manufactured home
45 and the period of exclusive jurisdiction given to the board.
46 The board may prescribe that the notice contain any infor-
47 mation the board determines to be beneficial to the pur-
48 chaser or owner of the manufactured home in exercising that
49 person's rights under 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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

Acting President of the Senate

Speaker of the House of Delegates

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OFFICE OF THE
SECRETARY OF STATE

The within is approved this the 31ST
Day of March, 2011.

Governor

PRESENTED TO THE GOVERNOR

MAR 22 2011

Time 3:45 pm