

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 106

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

reported on February 23, 2016.]

1 A BILL to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended,
2 relating to disclaimers of warranties with respect to goods which are the subject of, or are
3 intended to become the subject of, a consumer transaction; permitting exclusion,
4 modification or limitation of warranty upon sale of manufactured home under certain
5 circumstances; permitting consumer to waive a warranty as to a particular defect or
6 malfunction which dealer has disclosed; and setting requirements for waiver to be
7 effective.

Be it enacted by the Legislature of West Virginia:

1 That §46A-6-107 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-107. Disclaimer of warranties and remedies prohibited.

1 ~~(a) Notwithstanding any other provision of law to the contrary~~ Except in the case of certain
2 used manufactured homes as otherwise provided in this section, with respect to goods which are
3 the subject of or are intended to become the subject of a consumer transaction, no merchant ~~shall~~
4 may:

5 (1) Exclude, modify or otherwise attempt to limit any warranty, express or implied,
6 including the warranties of merchantability and fitness for a particular purpose; or

7 (2) Exclude, modify or attempt to limit any remedy provided by law, including the measure
8 of damages available, for a breach of warranty, express or implied, except as provided in
9 subsection (b) of this section, relating to the sale of used manufactured homes. ~~Any such~~
10 ~~exclusion, modification or attempted limitation shall be void.~~

11 (b) A consumer who purchases a used manufactured home may waive a warranty as to a
12 particular defect or malfunction which the dealer has disclosed in writing to the consumer if the
13 manufactured home is more than four years old from its date of production and has been in use
14 by any person longer than three years. The waiver is not effective unless the waiver:

- 15 (1) Is in writing;
- 16 (2) Is conspicuous and is in plain language;
- 17 (3) Identifies the particular disclosed defect or malfunction in the used manufactured home
18 for which the warranty is to be waived;
- 19 (4) Describes any additional defects or malfunctions, if any, which have been disclosed to
20 the dealer by a previous owner of the used manufactured home, or are discoverable by the dealer
21 through an inspection of the used manufactured home at the time of sale;
- 22 (5) States what warranty, if any, applies to any disclosed defect or malfunction; and
- 23 (6) Is signed by both the consumer and the dealer before the sales contract is executed.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.