

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2464

BY DELEGATE COWLES

[Passed March 9, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended,
2 relating to disclaimers and exclusions of warranties for used manufactured homes;
3 providing that a consumer may waive the warranties of merchantability and fitness for a
4 particular use; providing that a consumer may waive a particular defect or malfunction
5 which the merchant has identified and disclosed in writing to the consumer; providing for
6 the manner and content of waivers; and providing a definition.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. GENERAL CONSUMER PROTECTION.

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

1 (a) Except as otherwise provided in subsection (b) of this section, with respect to goods
2 which are the subject of or are intended to become the subject of a consumer transaction, no
3 merchant may:

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

6 (2) Exclude, modify or attempt to limit any remedy provided by law, including the measure
7 of damages available, for a breach of warranty, express, or implied.

8 (b) A consumer who purchases a used manufactured home may waive the warranties of
9 merchantability and fitness for a particular purpose, or waive a warranty as to a particular defect
10 or malfunction which the merchant has identified and disclosed in writing to the consumer, if the
11 used manufactured home is not being sold for human habitation: *Provided*, That notice be posted
12 on the front door of the used manufactured home that it is not being sold for human habitation:
13 *Provided, however*, That the waiver is not effective unless the waiver:

14 (1) Is in writing;

15 (2) Is conspicuous and is in plain language;

16 (3) Identifies with particularity the disclosed defect or malfunction, if any, in the used
17 manufactured home for which the warranty is to be waived;

18 (4) Describes any additional defects or malfunctions, if any, disclosed to the merchant by
19 a previous owner of the used manufactured home or discoverable by the merchant after an
20 inspection of the used manufactured home;

21 (5) States that the warranty being waived applies only to the disclosed defect or
22 malfunction, if any, to the extent the merchant intends to waive a warranty as to a specific defect;

23 (6) Acknowledges that the used manufactured home will not be used for human habitation:
24 *Provided*, That the consumer shall sign or initial such provision in order to evidence the
25 consumer's acknowledgment thereof; and

26 (7) Is signed by both the consumer and the merchant before the sales contract is executed.

27 For purposes of this subsection, "used manufactured home" means a manufactured home,
28 as defined in §21-9-2 of this code, that is more than four years old from its date of production and
29 has previously been occupied, used, or sold for purposes other than resale.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

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day of, 2018.

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Governor