

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 439**

5 (SENATORS PREZIOSO, YOST, BEACH, BARNES, SYPOLT, FANNING, TUCKER AND PLYMALE,
6 *original sponsors*)

7 _____
8 [Passed March 12, 2011; in effect from passage.]
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12 AN ACT to amend and reenact §21-9-11a of the Code of West Virginia,
13 1931, as amended, relating to clarifying that the filing of a
14 complaint with the state regulatory board is a prerequisite
15 for the filing of a lawsuit.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.**

20 **§21-9-11a. Inspection of manufactured housing; deferral period for**
21 **inspection and administrative remedies; notification**
22 **to consumers of rights.**

23 (a) Inspection of manufactured housing. When a purchaser or
24 owner of a manufactured home files a written complaint with the

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

17 (b) Period of exclusive administrative remedy. No purchaser
18 or owner of a manufactured home may file a civil action seeking
19 monetary recovery or damages for claims related to or arising out
20 of the manufacture, acquisition, sale or installation of the
21 manufactured home until the expiration of ninety days after the
22 consumer or owner has filed a written complaint with the board.
23 The board has a period of ninety days, commencing with the date of
24 filing of the complaint, to investigate and take administrative

1 action to order the correction of defects in the manufacture or
2 installation of a manufactured home. This period of exclusive
3 administrative authority may not prohibit the purchaser or owner of
4 the manufactured home from seeking equitable relief in a court of
5 competent jurisdiction to prevent or address an immediate risk of
6 personal injury or property damage. The filing of a complaint
7 under this article shall toll any applicable statutes of limitation
8 during the ninety-day period but only if the applicable limitation
9 period has not expired prior to the filing of the complaint.

10 (c) Notice of consumer rights. Every dealer or contractor who
11 moves homes from one place to another shall provide written
12 notification to every purchaser of a manufactured home of the
13 availability of administrative assistance from the board in
14 investigating and ordering corrections of any defect in the
15 manufacture or installation of a manufactured home and the period
16 of exclusive jurisdiction given to the board. The board may
17 prescribe that the notice contain any information the board
18 determines to be beneficial to the purchaser or owner of the
19 manufactured home in exercising that person's rights under this
20 section.