

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 439**

4 (By Senators Prezioso, Yost, Beach, Barnes, Sypolt, Fanning,
5 Tucker and Plymale)

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7 [Originating in the Committee on the Judiciary; reported February
8 11, 2011.]
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12 A BILL 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 ~~do constitute any of~~
13 ~~these violations,~~ constitute a violation, the board shall take such
14 further administrative action as provided for in this article
15 including, but not limited to, ordering the manufacturer, dealer or
16 contractor to correct any defects.

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

1 and take administrative action to order the correction of ~~any~~
2 defects in the manufacture or installation of a manufactured home.
3 ~~A purchaser or owner of a manufactured home may not file any civil~~
4 ~~action seeking monetary recovery or damages for claims related to~~
5 ~~or arising out of the manufacture, acquisition, sale or~~
6 ~~installation of the manufactured home, until the expiration of~~
7 ~~ninety days after the consumer or owner has filed a written~~
8 ~~complaint with the board.~~ This period of exclusive administrative
9 authority may not prohibit the purchaser or owner of the
10 manufactured home from seeking equitable relief in ~~any~~ a court of
11 competent jurisdiction to prevent or address an immediate risk of
12 personal injury or property damage. The filing of a complaint
13 under this article shall toll any applicable statutes of limitation
14 during the ninety-day period but only if the applicable limitation
15 period has not expired prior to the filing of the complaint.

16 (c) Notice of consumer rights. Every dealer or contractor who
17 moves homes from one place to another shall provide written
18 notification to every purchaser of a manufactured home of the
19 availability of administrative assistance from the board in
20 investigating and ordering corrections of any defect in the
21 manufacture or installation of a manufactured home and the period
22 of exclusive jurisdiction given to the board. The board may
23 prescribe that the notice contain any information the board
24 determines to be beneficial to the purchaser or owner of the

1 manufactured home in exercising that person's rights under this
2 section.