

Senate Bill No. 439

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

[Introduced February 7, 2011; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §21-9-11a of the Code of West Virginia, 1931, as amended, relating to establishing a statute of limitations regarding claims involving manufactured housing; deferral period for inspection and administrative remedies; and clarifying that the filing of complaints must first be made to the state regulatory board.

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.

(a) Inspection of manufactured housing. When a purchaser or 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 exclusive administrative remedy. A
18 purchaser or owner of a manufactured home may not file a civil
19 action seeking monetary recovery or damages for claims related to
20 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) Limitation of actions. Notwithstanding any other
17 provision of law, except as expressly provided in this section, no
18 civil action may be filed by any purchaser or owner of a
19 manufactured home 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, more than one year after the
22 filing of an administrative complaint with the board or two years
23 after the purchaser discovers or should have discovered a defect in
24 the manufacture, sale or installation of the manufactured home,

1 whichever period is longer.

2 ~~(c)~~ (d) Notice of consumer rights. Every dealer or contractor
3 who moves homes from one place to another shall provide written
4 notification to every purchaser of a manufactured home of the
5 availability of administrative assistance from the board in
6 investigating and ordering corrections of any defect in the
7 manufacture or installation of a manufactured home and the period
8 of exclusive jurisdiction given to the board. The board may
9 prescribe that the notice contain any information the board
10 determines to be beneficial to the purchaser or owner of the
11 manufactured home in exercising that person's rights under this
12 section.

NOTE: The purpose of this bill is to clarify that the complaint must be filed first with the State Regulatory Board and to establish a two year statute of limitations for actions involving manufactured housing.

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