

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 439

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

[Originating in the Committee on the Judiciary;
reported February 11, 2011.]

A BILL to amend and reenact §21-9-11a of the Code of West Virginia, 1931, as amended, relating to clarifying that the filing of a complaint with the state regulatory board is a prerequisite for the filing of a lawsuit.

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.**

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

21 (b) ~~Limited period for~~ Period of exclusive administrative
22 remedy. No purchaser or owner of a manufactured home may

23 file a civil action seeking monetary recovery or damages for
24 claims related to or arising out of the manufacture, acquisi-
25 tion, sale or installation of the manufactured home until the
26 expiration of ninety days after the consumer or owner has
27 filed a written complaint with the board. The board has a
28 period of ninety days, commencing with the date of filing of
29 the complaint, to investigate and take administrative action
30 to order the correction of ~~any~~ defects in the manufacture or
31 installation of a manufactured home. ~~A purchaser or owner~~
32 ~~of a manufactured home may not file any civil action seeking~~
33 ~~monetary recovery or damages for claims related to or~~
34 ~~arising out of the manufacture, acquisition, sale or installa-~~
35 ~~tion of the manufactured home, until the expiration of ninety~~
36 ~~days after the consumer or owner has filed a written com-~~
37 ~~plaint with the board.~~ This period of exclusive administra-
38 tive authority may not prohibit the purchaser or owner of the
39 manufactured home from seeking equitable relief in ~~any~~ a
40 court of competent jurisdiction to prevent or address an
41 immediate risk of personal injury or property damage. The
42 filing of a complaint under this article shall toll any applica-
43 ble statutes of limitation during the ninety-day period but

44 only if the applicable limitation period has not expired prior
45 to the filing of the complaint.

46 (c) Notice of consumer rights. Every dealer or contractor
47 who moves homes from one place to another shall provide
48 written notification to every purchaser of a manufactured
49 home of the availability of administrative assistance from the
50 board in investigating and ordering corrections of any defect
51 in the manufacture or installation of a manufactured home
52 and the period of exclusive jurisdiction given to the board.
53 The board may prescribe that the notice contain any infor-
54 mation the board determines to be beneficial to the pur-
55 chaser or owner of the manufactured home in exercising that
56 person's rights under this section.