

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2464

BY DELEGATE COWLES

[Reported down February 13, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended,
2 relating to disclaimers and exclusions of warranties in consumer transactions for goods;
3 permitting waivers of warranty for defects and malfunctions in certain used manufactured
4 homes; permitting waivers of express and implied warranties in the sale of certain used
5 manufactured homes; and providing for the manner and content of waivers executed by
6 the buyer and seller for the sale of certain used manufactured homes.

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) Notwithstanding any other provision of law to the contrary~~ Except in the case of certain
2 used manufactured homes as otherwise provided in this section, with respect to goods which are
3 the subject of or are intended to become the subject of a consumer transaction, no merchant ~~shall~~
4 may:

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

7 (2) Exclude, modify or attempt to limit any remedy provided by law, including the measure
8 of damages available, for a breach of warranty, express or implied, except as provided in
9 subsection (b) of this section, relating to the sale of used manufactured homes.

10 ~~Any such exclusion, modification or attempted limitation shall be void.~~

11 (b) A consumer who purchases a used manufactured home may waive a warranty as to
12 a particular defect or malfunction which the dealer has disclosed in writing to the consumer if the
13 home is not being sold for human habitation and the consumer signs a statement that
14 acknowledges he or she has been advised that the home is not fit for human habitation, that the
15 home is more than four years old from the date of its production, and that the home has been in
16 use by any person longer than three years.

17 (c) The waiver is not effective unless the waiver:

- 18 (1) Is in writing;
- 19 (2) Is conspicuous and is in plain language;
- 20 (3) Identifies the particular disclosed defect or malfunction in the used manufactured home
21 for which the warranty is waived, which disclosure is also posted on the front door of the home;
- 22 (4) Describes any additional defects or malfunctions, if any, which have been disclosed to
23 the dealer by a previous owner of the used manufactured home, or are discoverable by the dealer
24 through an inspection of the used manufactured home at the time of sale;
- 25 (5) States what warranty, if any, applies to any disclosed defect or malfunction; and
- 26 (6) Is signed by both the consumer who actually in writing indicates the non-habitation
27 use for the home and the dealer before the sales contract is executed.