

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 64

BY SENATORS PREZIOSO AND BOSO

[Introduced January 10, 2018; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §21-11-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto two new sections, designated §21-11-10b and §21-
 3 11-10c, all relating to requiring any newly constructed, state-assisted, detached single-
 4 family house, a townhouse or multilevel dwelling unit, whether detached or attached to
 5 other units or structures, or a ground floor unit in a building of three or fewer dwelling units
 6 to meet minimum standards of universal design for persons with disabilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-3. Definitions.

- 1 (a) "Commissioner" means the Commissioner of the Division of Labor.
- 2 (b) "Board" means the West Virginia Contractor Licensing Board.
- 3 (c) "Contractor" means a person who in any capacity for compensation, other than as an
 4 employee of another, undertakes, offers to undertake, purports to have the capacity to undertake
 5 or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish
 6 any building, highway, road, railroad, structure or excavation associated with a project,
 7 development or improvement, or to do any part thereof, including the erection of scaffolding or
 8 other structures or works in connection therewith, where the cost of the undertaking is \$2,500 or
 9 more.

10 Contractor includes a construction manager who performs management and counseling
 11 services for a construction project for a professional fee.

12 Contractor does not include:

- 13 (1) One who merely furnishes materials or supplies without fabricating or consuming them
 14 in the construction project;
- 15 (2) A person who personally performs construction work on the site of real property which
 16 the person owns or leases whether for commercial or residential purposes;
- 17 (3) A person who is licensed or registered as a professional and who functions under the

18 control of any other licensing or regulatory board, whose primary business is real estate sales,
19 appraisal, development, management and maintenance, who acting in his or her respective
20 professional capacity and any employee of such professional, acting in the course of his or her
21 employment, performs any work which may be considered to be performing contracting work;

22 (4) A pest control operator licensed under the provisions of section seven, article sixteen-
23 a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the
24 operator also performs structural repairs exceeding \$1,000 on property treated for insect pests;
25 or

26 (5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare
27 construction plans and specifications used by the contractors defined in this subsection and who
28 employs full time a registered architect licensed to practice in this state or a registered
29 professional engineer licensed to practice in this state. Employees of such corporation,
30 partnership or sole proprietorship shall also be exempt from the requirements of this article.

31 (d) "Electrical contractor" means a person who engages in the business of contracting to
32 install, erect, repair or alter electrical equipment for the generation, transmission or utilization of
33 electrical energy.

34 (e) "General building contractor" means a person whose principal business is, in
35 connection with any structures built, being built or to be built for the support, shelter and enclosure
36 of persons, animals, chattels or movable property of any kind, requiring in the construction the
37 use of more than two contractor classifications, or a person who supervises the whole or any part
38 of such construction.

39 (f) "General engineering contractor" means a person whose principal business is in
40 connection with public or private works projects, including, but not limited to, one or more of the
41 following: Irrigation, drainage and water supply projects; electrical generation projects; swimming
42 pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and
43 sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and

44 other liquid or gaseous substances; refineries; chemical plants and other industrial plants
45 requiring a specialized engineering knowledge and skill; piers and foundations; and structures or
46 work incidental thereto.

47 (g) "Heating, ventilating and cooling contractor" means a person who engages in the
48 business of contracting to install, erect, repair, service or alter heating, ventilating and air
49 conditioning equipment or systems to heat, cool or ventilate residential and commercial
50 structures.

51 (h) "License" means a license to engage in business in this state as a contractor in one of
52 the classifications set out in this article.

53 (i) "Multifamily contractor" means a person who is engaged in construction, repair or
54 improvement of a multifamily residential structure.

55 (j) "Person" includes an individual, firm, sole proprietorship, partnership, corporation,
56 association or other entity engaged in the undertaking of construction projects or any combination
57 thereof.

58 (k) "Piping contractor" means a person whose principal business is the installation of
59 process, power plant, air, oil, gasoline, chemical or other kinds of piping; and boilers and pressure
60 vessels using joining methods of thread, weld, solvent weld or mechanical methods.

61 (l) "Plumbing contractor" means a person whose principal business is the installation,
62 maintenance, extension and alteration of piping, plumbing fixtures, plumbing appliances and
63 plumbing appurtenances, venting systems and public or private water supply systems within or
64 adjacent to any building or structure; included in this definition is installation of gas piping, chilled
65 water piping in connection with refrigeration processes and comfort cooling, hot water piping in
66 connection with building heating and piping for stand pipes.

67 (m) "Residential contractor" means a person whose principal business is in connection
68 with construction, repair or improvement of real property used as, or intended to be used for,
69 residential occupancy.

70 (n) "Specialty contractor" means a person who engages in specialty contracting services
71 which do not substantially fall within the scope of any contractor classification as set out herein.

72 (o) "Residential occupancy" means occupancy of a structure for residential purposes for
73 periods greater than thirty consecutive calendar days.

74 (p) "Residential structure" means a building or structure used or intended to be used for
75 residential occupancy, together with related facilities appurtenant to the premises as an adjunct
76 of residential occupancy, which contains not more than three distinct floors which are above grade
77 in any structural unit regardless of whether the building or structure is designed and constructed
78 for one or more living units. Dormitories, hotels, motels or other transient lodging units are not
79 residential structures.

80 (q) "Subcontractor" means a person who performs a portion of a project undertaken by a
81 principal or general contractor or another subcontractor.

82 (r) "Division" means the Division of Labor.

83 (s) "Cease and desist order" means an order issued by the commissioner pursuant to the
84 provisions of this article.

85 (t) The term "basic universal design" means the design of products and environments to
86 be useable by all people, to the greatest extent possible, without the need for adaptation or
87 specialization.

88 (u) "Accessible route" means a continuous unobstructed path that:

89 (1) Can be negotiated by a person with a disability using a wheelchair; and

90 (2) Is safe for and usable by people with other disabilities and people without disabilities.

91 (v) "Covered dwelling unit" means a dwelling unit that:

92 (1) Is a detached single-family house, a townhouse or multilevel dwelling unit (whether
93 detached or attached to other units or structures), or a ground-floor unit in a building of three or
94 fewer dwelling units;

95 (2) Is designed as, or intended for occupancy as, a residence;

96 (3) Was designed, constructed, or commissioned, contracted or otherwise arranged for
97 design or construction, by any person or entity who, at any time during the design or construction,
98 received state financial assistance for any program or activity; and

99 (4) Is made available for first occupancy after the expiration of the one-year period
100 beginning on the date of enactment of this section.

101 (w) "Environmental controls" means, for a covered dwelling unit, any switches or devices
102 that control or regulate lights, temperature, fans, doors, security system features, or any other
103 feature included in the new construction of the unit.

104 (x) "State financial assistance" means any assistance that is provided or otherwise made
105 available by any state program or activity or such agencies, through any grant, loan, contract, or
106 any other arrangement, after the expiration of the one-year period beginning on the date of the
107 enactment of this section, including:

108 (1) Grants, subsidies or any other funds;

109 (2) Services of state personnel;

110 (3) Real or personal property or any interest in or use of such property, including:

111 (A) Transfers or leases of the property for less than fair market value or for reduced
112 consideration; and

113 (B) Proceeds from a subsequent transfer or lease of the property if the state share of its
114 fair market value is not returned to the state;

115 (4) Any tax credit, mortgage or loan guarantee or insurance; and

116 (5) State community development funds.

§21-11-10b. Universal design requirements.

1 Any person who designs, constructs, or commissions, contracts, or otherwise arranges
2 for design or construction of a covered dwelling unit referred to in §21-11-3(v) of this code shall
3 ensure, pursuant to provisions of §21-11-10c of this code, that the dwelling unit contains at least
4 one level that complies with the following requirements:

5 (a) Accessible entrance.--

6 (1) Except as provided in subdivision two of this subsection, the level shall contain at least
7 one entrance to the covered dwelling unit that:

8 (A) Is accessible to, and usable by, people with disabilities such that all rooms on the level
9 are connected by an accessible route;

10 (B) Does not contain any steps or door threshold that exceeds one-half inch in height; and

11 (C) Is located on a continuous unobstructed path from the public street or driveway that
12 serves the unit, which path:

13 (i) At no point has a slope exceeding one inch in rise for every twelve inches in length;

14 (ii) Has a width of not less than thirty-six inches;

15 (iii) Has a cross slope not greater than two percent of the width;

16 (iv) Is an accessible route; and

17 (v) May include curb ramps, parking access aisles, walks and ramps.

18 (2) The provisions of paragraphs (B) and (C), subdivision one of this subsection shall not
19 apply to a covered dwelling unit if:

20 (A) The finished grade of the site is too steep to provide a path having a slope meeting
21 the requirements of subparagraph (i), paragraph (C), subdivision one of this subsection at the
22 front, side, or back of the unit;

23 (B) There is no driveway serving the unit; and

24 (C) There is no alleyway or other roadway capable of providing vehicular access to the
25 rear of the unit.

26 (b) Accessible interior doors.-- All doors that are designed to allow passage within the level
27 shall have an unobstructed opening of at least thirty-two inches when the door is open at a ninety-
28 degree angle.

29 (c) Accessible environmental controls.-- All environmental controls located on the level
30 shall be located on the wall:

- 31 (1) At least fifteen inches, but not more than forty-eight inches, above the floor; or
32 (2) In the case of environmental controls located directly above a counter, sink, or
33 appliance, not more than three inches above the counter, sink or appliance.
- 34 (d) Accessible habitable space and bathroom.-- The level shall contain the following:
- 35 (1) At least one indoor room that has an area not less than seventy square feet and
36 contains no side or dimension narrower than seven feet; and
- 37 (2) At least one bathroom that contains, at a minimum:
- 38 (A) Clear floor space of thirty by forty-eight inches centered on and contiguous to the sink,
39 which is not encroached by the swing path of the bathroom door;
- 40 (B) A sink and a toilet that each allow for a parallel or head-on approach by a person in a
41 wheelchair; and
- 42 (C) Walls that are reinforced to be capable of supporting grab bars that resist shear and
43 bending forces of a minimum of two hundred and fifty pounds, as follows:
- 44 (i) All walls adjacent to the toilet shall have horizontal backing reinforcements, each at
45 least thirty-three inches, but not more than thirty-six inches, above the floor, and sufficient to allow
46 for a twenty-four-inch grab bar on the wall behind the toilet and another forty-two-inch grab bar;
- 47 (ii) If a bathtub is present in the bathroom, such reinforcements shall include:
- 48 (I) Two backing reinforcements on the back wall of the bathtub, each at least twenty-four
49 inches long and not more than twenty-four inches from the head end wall and not more than
50 twelve inches from the foot end wall, one backing reinforcement in a horizontal position at least
51 thirty-three inches, but not more than thirty-six inches, above the floor, and one backing
52 reinforcement nine inches above the rim of the bathtub;
- 53 (II) One backing reinforcement on the foot end wall of the bathtub, at least twenty-four
54 inches long and located at the front edge of the bathtub; and
- 55 (III) One backing reinforcement on the head end wall of the bathtub, at least twelve inches
56 long and located at the front edge of the bathtub;

57 (iii) If a shower is present in the bathroom, such reinforcements shall include backing
58 reinforcements on at least two walls on which the control valve is not located, each at least thirty-
59 three inches, but not more than thirty-six inches, above the floor.

§21-11-10c. Universal design enforcement.

1 (a) Requirement for state financial assistance.-- Each applicant for state financial
2 assistance shall submit an assurance to the state agency responsible for such assistance that all
3 of its programs and activities will be conducted in compliance with the universal design
4 requirements referred to in section ten-b, article eleven of this chapter.

5 (b) Approval of architectural and construction plans.-- Any applicant for or recipient of state
6 financial assistance who designs, constructs, commissions, contracts, or otherwise arranges for
7 design or construction of a covered dwelling unit referred to in §21-11-3(v) of this code shall
8 submit architectural and construction plans for the unit to the state or local department or agency
9 that is responsible, under applicable state or local law, for the review and approval of construction
10 plans for compliance with generally applicable building codes or requirements, referred to as the
11 “appropriate state or local agency.”

12 (c) Determination of compliance and enforcement.-- The appropriate state or local agency
13 shall ensure compliance with the universal design requirements set forth in §21-11-10(b) of this
14 code by:

15 (A) Reviewing any plans for a covered dwelling unit submitted pursuant to subsection (b)
16 of this section and approving or disapproving the plans based on compliance with the
17 requirements referred to in §21-11-10(b) of this code; and

18 (B) Consistent with applicable state or local laws and procedures, withholding final
19 approval of construction or occupancy of a covered dwelling unit unless and until compliance is
20 determined.

21 (d) Challenges to enforcement.-- All challenges to enforcement shall begin with the filing
22 of a complaint with the board established in §21-11-4 of this code and shall follow the procedures
23 set forth in §21-11-13 and §21-11-14 of this code.

NOTE: The purpose of this bill is to require all newly constructed, state assisted, detached single family houses, townhouses or multilevel dwelling units (whether detached or attached to other units or structures), or ground-floor units in a building of three or fewer dwelling units to meet minimum standards of universal design for persons with disabilities.

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