

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 148

FISCAL
NOTE

BY SENATORS PREZIOSO, JEFFRIES, STOLLINGS, AND

LINDSAY

[Introduced January 9, 2019; Referred
to the Committee on Government Organization; and then
to the Committee on Finance]

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) "Commission" 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 §19-16A-7 of this code to
23 engage in the application of pesticides for hire, unless the operator also performs structural
24 repairs exceeding \$1,000 on property treated for insect pests; or

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

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

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

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

44 requiring a specialized engineering knowledge and skill; piers and foundations; and structures or
45 work incidental thereto.

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

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

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

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

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

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

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

69 (n) "Specialty contractor" means a person who engages in specialty contracting services

70 which do not substantially fall within the scope of any contractor classification as set out herein.

71 (o) "Residential occupancy" means occupancy of a structure for residential purposes for
72 periods greater than 30 consecutive calendar days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

108 (2) Services of state personnel;

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

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

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

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

115 (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 12 inches in length;

14 (ii) Has a width of not less than 36 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 §21-11-10b(a)(1)(B) and (C), subdivision one of this code
19 shall not 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 §21-11-10b(a)1(C)(i) of this code at the front, side, or back of the unit;

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

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

25 (b) Accessible interior doors.-- All doors that are designed to allow passage within the level
26 shall have an unobstructed opening of at least 32 inches when the door is open at a 90-degree
27 angle.

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

30 (1) At least 15 inches, but not more than 48 inches, above the floor; or

31 (2) In the case of environmental controls located directly above a counter, sink, or
32 appliance, not more than three inches above the counter, sink or appliance.

33 (d) Accessible habitable space and bathroom.-- The level shall contain the following:

34 (1) At least one indoor room that has an area not less than 70 square feet and contains
35 no side or dimension narrower than seven feet; and

36 (2) At least one bathroom that contains, at a minimum:

37 (A) Clear floor space of 30 by 48 inches centered on and contiguous to the sink, which is
38 not encroached by the swing path of the bathroom door;

39 (B) A sink and a toilet that each allow for a parallel or head-on approach by a person in a
40 wheelchair; and

41 (C) Walls that are reinforced to be capable of supporting grab bars that resist shear and
42 bending forces of a minimum of 250, as follows:

43 (i) All walls adjacent to the toilet shall have horizontal backing reinforcements, each at
44 least 33 inches, but not more than 36 inches, above the floor, and sufficient to allow for a 24inch
45 grab bar on the wall behind the toilet and another 42 inch grab bar;

46 (ii) If a bathtub is present in the bathroom, such reinforcements shall include:

47 (I) Two backing reinforcements on the back wall of the bathtub, each at least 24 inches
48 long and not more than 24 inches from the head end wall and not more than 12 inches from the
49 foot end wall, one backing reinforcement in a horizontal position at least 33 inches, but not more
50 than 36 inches, above the floor, and one backing reinforcement nine inches above the rim of the
51 bathtub;

52 (II) One backing reinforcement on the foot end wall of the bathtub, at least 24 inches long
53 and located at the front edge of the bathtub; and

54 (III) One backing reinforcement on the head end wall of the bathtub, at least 12 inches
55 long and located at the front edge of the bathtub;

56 (iv) If a shower is present in the bathroom, such reinforcements shall include backing
57 reinforcements on at least two walls on which the control valve is not located, each at least 33
58 inches, but not more than 36 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 §21-11-10b of this code.

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 §21-11-10c(b)
16 of this code and approving or disapproving the plans based on compliance with the requirements
17 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.