

NOTICE OF PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE

PUBLIC HEARING

AGENCY: Attorney General

RULE TYPE: ~~Emergency~~ Legislative

RULE TITLE: Emergency rule concerning the prevention of unfair or deceptive acts or practices in the course of flood-related recovery efforts in West Virginia

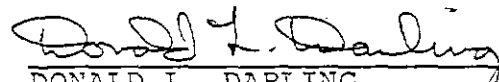
A PUBLIC HEARING ON THE ABOVE PROPOSED RULE WILL BE HELD AT 10:00 a.m. ON February 28, 1986, AT Attorney General's office, Consumer Protection Division, 1204 Kanawha Boulevard, East Charleston, West Virginia 25301

COMMENTS ARE LIMITED TO: ORAL WRITTEN BOTH

COMMENTS MAY ALSO BE MAILED TO: 1204 Kanawha Boulevard, East, Charleston, West Virginia 25301

THE DEPARTMENT REQUESTS THAT PERSONS WISHING TO MAKE COMMENTS AT THE HEARING MAKE AN EFFORT TO SUBMIT WRITTEN COMMENTS IN ORDER TO FACILITATE A REVIEW OF THESE COMMENTS.

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.


DONALD L. DARLING
Acting Director
Deputy Attorney General
Consumer Protection Division

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WEST VIRGINIA EMERGENCY RULE
ATTORNEY GENERAL
CHAPTER 46A-6 and 46A-7
SERIES I

Title: Emergency rule concerning the prevention of unfair or deceptive acts or practices in the course of flood-related recovery efforts in West Virginia.

SUMMARY OF EMERGENCY RULE

The Consumer Protection Division of the Office of the Attorney General is promulgating an Emergency Rule designed to prevent a variety of unfair or deceptive acts or practices in the course of flood-related recovery efforts in West Virginia.

The Rule is divided into five sections. The first, entitled "General," addresses the scope, authority, filing date, effective date, penalties, construction and severability of the Rule.

The second section contains relevant definitions.

The third section initiates the substantive requirements of the Rule. Specifically, it requires all door-to-door home improvement contractors operating in the twenty-nine (29) county flood disaster region to register with the Consumer Protection Division of the Attorney General's office. The underlying purpose of this section is threefold: (1) to gather information necessary to assist consumers in evaluating door-to-door contractors; (2) to educate the relevant segment of the business community about State consumer protection laws; and (3) to discourage unscrupulous operators from engaging in trade or commerce in the Mountain State. This registration provision will expire on September 1, 1986, unless otherwise extended by amendment.

The fourth section, entitled "Home Improvement and Home Construction Transactions," identifies those activities considered by the Consumer Protection Division to constitute unfair or deceptive acts or practices. A total of thirty-one (31) specific acts or practices are proscribed, including failure to provide a written contract, failure to provide

the full price of the work to be performed, and misrepresenting that goods are specially discounted due to surplus from a previous job. The need for this section is underscored by the eleven-year experience of the Consumer Protection Division in handling complaints of this nature, our recent experience with flood-related complaints, and reports from other states engaged in similar enforcement activities.

The final section deals with the unethical practices of misrepresenting the extent of flood-damaged goods offered for sale. It also prohibits the selling of flood-damaged goods without clear and conspicuous disclosure of the extent of the damage.

For more information, please contact Jane H. Theiling, Acting Director, Office of the Attorney General, Consumer Protection Division, 1204 Kanawha Boulevard, East, Charleston, West Virginia 25301.

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Acting Director
Deputy Attorney General
Consumer Protection Division

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STATEMENT OF FACTS

Title: Proposed legislative rule pertaining to the prevention of unfair or deceptive acts or practices in the course of flood-related recovery efforts in West Virginia.

The attached rule was filed as an Emergency Rule. The facts and circumstances constituting the emergency were as follows: The devastation resulting from the recent flood in West Virginia required many families to rebuild or repair their homes. Based on the experience of other states, as well as the nature of complaints currently being received by the Consumer Protection Division of the Office of the Attorney General, it has been apparent that many business interests are engaging in, or will shortly engage in, a variety of unfair or deceptive acts or practices in the marketplace. The proposed legislative rule is designed to assist in the prevention of such abuses and to provide West Virginia consumers, especially vulnerable in a time of crisis, with an important measure of additional consumer protection. This rule is necessary not only to preserve the public welfare and safety, but also to prevent substantial harm to the public interest.

CHARLES G. BROWN
ATTORNEY GENERAL

Ernest L. Clari

CONSUMER PROTECTION DIVISION

FISCAL NOTE FOR PROPOSED RULES

Emergency rule pertaining to the prevention of unfair or deceptive acts or practices in the course of flood-related

Rule Title: recovery efforts in West Virginia.

Type of Rule: X Emergency Legislative Interpretive Procedural

Agency Office of the Attorney General Address 1204 Kanawha Boulevard,
Consumer Protection Division
East, Charleston, West Virginia 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	\$0	\$0	\$0	\$0	\$0
Current Expense	\$0	\$0	\$0	\$0	\$0
Repairs and Alterations	\$0	\$0	\$0	\$0	\$0
Equipment	\$0	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0	\$0

2. Explanation of above estimates:

No estimated cost increase or decrease.

3. Objectives of these rules:

The proposed emergency rule is designed to protect consumers from unfair or deceptive acts or practices in the course of flood-related recovery efforts in West Virginia. More specifically, the rule proscribes a variety of unethical practices in the home construction and home improvement industries, requires registration of door-to-door home improvement contractors and prohibits misrepresentations in the sale of flood-damaged goods.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date _____

Signature of Agency Head or Authorized Representative

Ernie L. Uva

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation W. Va. Code § 46A-6-103
and § 46A-7-102 (e)

2. a. Date filed in State Register with Notice of Hearing:
January 27, 1986

b. What other notice, including advertising, did you
give of the hearing?
None

c. Date of Hearing(s): February 28, 1986

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for
amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency
approved proposed Legislative Rule following public
hearing: (be exact)

May 23, 1986

f. Name and phone number of agency person to contact
for additional information:

Eumi L. Choi

348-8986

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

b. Date of Hearing: Not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable