



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Office of the Inspector General TITLE-SERIES: 71-09

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Rules Regarding Housing Discrimination Against
Persons with Disabilities who Utilize Assistance
Animals

CITE STATUTORY AUTHORITY: W. Va. Code §16B-17-8(h), §16B-18-5, §16B-18-13, §16B-18-20

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) SB300

Section W. Va. Code 16B-1-1 Passed On 2/8/2024 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

February 5, 2025

This rule shall terminate and have no further force or effect from the following date:

August 01, 2030

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jessica Y Whitmore -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 71
LEGISLATIVE RULE
OFFICE OF INSPECTOR GENERAL

SERIES 9
RULES REGARDING HOUSING DISCRIMINATION AGAINST PERSONS WITH DISABILITIES WHO UTILIZE
ASSISTANCE ANIMALS

§71-9-1. General.

1.1. Scope. -- The following legislative rules of the West Virginia Human Rights Commission set forth standards for compliance with the requirements of the West Virginia Fair Housing Act, W. Va. Code §16b-18-1, *et seq.*, regarding nondiscrimination against persons with disabilities who utilize assistance animals to perform major life activities or to ameliorate the effect of its master's disability. In these rules, the word "handicap" and its derivations are replaced by the word "disability" and its derivations, in order to conform to a convention established by the Americans with Disabilities Act of 1990 and the West Virginia Human Rights Act, as amended, even though the Federal Fair Housing Act and the West Virginia Fair Housing Act use the term "handicap." For the purpose of these rules, "disability" is synonymous with "handicap."

1.2. Authority. -- W. Va. Code §16B-17-8(h), §16B-18-5, §16B-18-9, §16B-18-13, and §16B-18-20.

1.3. Filing Date. -- February 5, 2025.

1.4. Effective Date. -- February 5, 2025.

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on August 1, 2030.

§71-9-2. Definitions.

2.1. "Assistance animal" means any service animal or emotional support animal, with or without specific training and/or certification, which is kept and used by a person with a disability, to perform or assist in performing one or more major life activities, or to ease or ameliorate the effects of its master's disability.

§71-9-3. Assistance Animals As An Accommodation To A Disability.

3.1. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

3.2. Rules, policies, practices, or services regarding pets are subject to the reasonable accommodation requirements of subsection 3.1; provided, that in connection with a request for reasonable accommodation to such rules, policies, practices, or services, a person with a disability may be required to provide supporting material documenting the need for the assistance animal.

3.3. Where reasonable accommodation to rules, policies, practices, or services with regard to animals is required, it shall be unlawful to condition such accommodation on the payment of additional fees or deposits.

3.4. A person with a disability may be refused the accommodation of an assistance animal if there is credible evidence that such assistance animal would be a direct threat to the health or safety of others.

3.5. A person with a disability who keeps or uses an assistance animal shall be responsible for seeing that such assistance animal lives in the home of such person without disturbing the property or quiet enjoyment of the property owner or such person's neighbors and shall be liable for any damage caused by such assistance animal.