

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA  
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Form #6

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

AGENCY: West Virginia Human Rights Commission TITLE NUMBER: 77

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Rules Regarding Housing Discrimination Against  
Persons With Disabilities Who Utilize Assistance Animals

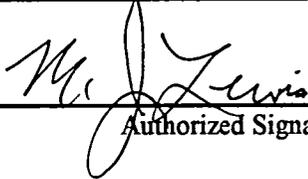
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 4139

SECTION W.Va. Code 5-11-8(h), 5-11A-5,  
5-11A-9, 5-11A-13, 5-11A-20 PASSED ON March 10, 2012  
and 29A-3-1 et seq.

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: May 4, 2012

  
\_\_\_\_\_  
Authorized Signature

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

TITLE 77  
LEGISLATIVE RULES  
WEST VIRGINIA HUMAN RIGHTS COMMISSION

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

§77-9-1. 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 § 5-11A-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. – These rules are issued under authority of W. Va. Code §§ 5-11-8(h), 5-11A-5, 5-11A-9, 5-11A-13, 5-11A-20, and 29A-3-1 et seq.

1.3. Filing Date. – May 4, 2012.

1.4. Effective Date. – May 4, 2012.

**§77-9-2. 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.

**§77-9-3. 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.