

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 118

(By Senator Foster)

[Originating in the Committee on the Judiciary;
reported January 18, 2012.]

A BILL to amend and reenact §37-6-11 of the Code of West Virginia, 1931, as amended, relating to termination of a residential lease upon the death of a tenant; permitting termination of a residential lease in certain situations; requiring notice and payment of certain rent; prohibiting waiver; and providing date for applicability of provisions.

Be it enacted by the Legislature of West Virginia:

That §37-6-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. LANDLORD AND TENANT.

§37-6-11. Persons liable for rent; termination of lease upon death.

1 (a) Rent may be recovered from the lessee, or other
2 person owing it, or the heir, personal representative, devisee
3 or assignee, who has succeeded to the lessee's estate in the
4 premises. But no assignee shall be liable for rent which
5 became due before his or her interest began. ~~Nothing herein~~
6 ~~shall change or impair the liability of heirs, personal repre-~~
7 ~~sentatives, or devisees, for rent, to the extent and in the~~
8 ~~manner in which they are liable for other debts of the~~
9 ~~ancestor or testator; nor shall the mere merger of the rever-~~
10 ~~sion to which a rent is incident affect the liability for such~~
11 ~~rent.~~

12 (b) Notwithstanding any other provision of this code, as
13 provided in this section either a lessee who signed a lease
14 with a now-deceased lessee, the heir, personal representa-
15 tive, devisee or assignee of the deceased lessee, or the
16 landlord may terminate the lease prior to its expiration, upon
17 the death of a lessee of a residential premises. To be effec-
18 tive, notice of the termination must be hand delivered or
19 mailed by postage prepaid, first class United States mail, to
20 the address of the other party. The date of notice is either the
21 date the notice is hand delivered or the date a notice by mail
22 is postmarked. The termination shall become effective on the

23 last day of the calendar month that is two months after the
24 date of notice.

25 (c) The termination of a lease under this section does not
26 relieve the lessee's estate from liability either for the pay-
27 ment of rent or other sums owed prior to or during the two
28 month written notice period, or for the payment of amounts
29 necessary to restore the premises to their condition at the
30 commencement of the tenancy, ordinary wear and tear
31 excepted.

32 (d) An attempted waiver by a lessor, lessee or lessee's
33 heir, personal representative, devisee or assignee, by contract
34 or otherwise, of the right of termination provided by this
35 section, and any lease provision or agreement requiring a
36 longer notice period than that provided by this article, is
37 void and unenforceable.

38 (e) The provisions of this section apply to leases entered
39 into or renewed on or after July 1, 2012.

(NOTE: The purpose of this bill is to provide for the termination of a residential rental lease upon the death of the lessee.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)