1	н. в. 2582
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3 4	(By Delegates Fleischauer, Miley, Hunt, Longstreth, Pino, Ellem, Overington and Frich)
5	[Introduced February 21, 2013; referred to the
6	Committee on the Judiciary.]
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10	A BILL to amend the Code of West Virginia, 1931, as amended, by
11	adding thereto a new section, designated $\$55-7-27$, relating to
12	the liability of a possessor of real property for harm to a
13	trespasser.
14	Be it enacted by the Legislature of West Virginia:
15	That the Code of West Virginia, 1931, as amended, be amended
16	by adding thereto a new section, designated $$55-7-27$, to read as
17	follows:
18	ARTICLE 7. ACTIONS FOR INJURIES.
19	§55-7-27. Liability of possessor of real property for harm to a
20	trespasser.
21	(a) A possessor of real property, including an owner, lessee,
22	or other lawful occupant, owes no duty of care to a trespasser
23	except in those circumstances where a common law right-of-action
24	existed as of the effective date of this section, including the

- 1 duty to refrain from willfully or wantonly causing the trespasser
- 2 injury.
- 3 (b) A possessor of real property may use justifiable force to
- 4 repel a criminal trespasser as provided by section twenty-two of
- 5 this article.
- 6 (c) This section does not increase the liability of any
- 7 possessor of real property and does not affect any immunities from
- 8 <u>or defenses to liability established by another section of this</u>
- 9 code or available at common law to which a possessor of real
- 10 property may be entitled.
- 11 (d) The Legislature intends to codify and preserve the common
- 12 law in West Virginia on the duties owed to trespassers by
- 13 possessors of real property as of the effective date of this
- 14 section.

NOTE: The purpose of this bill is to codify existing common law in West Virginia as it relates to the duty of care possessors of property owe trespassers.

This section is new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Joint Judiciary Committee.