

E N G R O S S E D

H. B. 2054

(BY DELEGATE(S) SHOTT)

[Introduced January 14, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-6-31, relating to the right of the landlord of commercial premises to terminate the lease under certain circumstances and providing a process for the termination.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §37-6-31, to read as follows:

ARTICLE 6. LANDLORD AND TENANT.

§37-6-31. Landlord's right to terminate lease of commercial premises if tenant fails to use premises for agreed purpose.

1 (a) With respect to commercial property comprised of
2 multiple units and intended to be occupied by more than one
3 commercial tenant, a landlord has the right to terminate a
4 tenant's lease even if the tenant is paying rent in accordance with
5 the terms of the lease if:

6 (1) The lease specifies a commercial purpose for which the
7 leased property is to be used by the tenant; and

8 (2) (A) The tenant fails to commence using the leased
9 property for the purpose specified in the lease with the intent to
10 suppress competition; or

11 (B) Commences using the leased property for a purpose
12 different than that which is specified in the lease and to which
13 the landlord has not agreed in writing; and, if

14 (3) The period of nonuse or unpermitted use continues for at
15 least sixty consecutive days following delivery of a written
16 demand from landlord for tenant to commence using the leased
17 property for the purpose specified in the lease; and

18 (4) The nonuse or unpermitted use by the tenant has an
19 adverse economic effect upon landlord and at least one of the
20 landlord's other tenants; and

21 (5) In the case of nonuse, the lease does not expressly permit
22 the tenant to refrain from using the premises for the purpose
23 specified in the lease nor designate the period during which the
24 nonuse is permitted.

25 (b) In order to exercise its right to terminate, the landlord
26 shall deliver to the tenant a written notice of the termination at
27 least sixty days prior to the effective date of the termination.

28 (c) The termination of the lease under the authority of this
29 section operates to extinguish all of the respective rights and
30 obligations of the parties except the landlord's right to collect all
31 unpaid rent and other financial obligations of the tenant and all
32 other rights and obligations which would survive the termination
33 under the express terms of the lease.

34 (d) This section does not replace or limit any other remedy
35 available to the landlord under the lease or applicable law.

NOTE: The purpose of this bill is to permit a landlord to terminate a lease of a portion of a multitenant commercial property if the tenant fails to use the premises for

the purpose specified in the lease, and the tenant's use or nonuse produces an adverse economic effect upon the landlord or another tenant of the property. It establishes a procedure for notifying the tenant and allows the tenant time to commence using the premises for its agreed purpose. It also requires the landlord to notify the tenant of the termination of the lease if the tenant fails to commence using the premises within the specified time.

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