

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 118**

4 (By Senator Foster)

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6 [Originating in the Committee on the Judiciary;
7 reported January 18, 2012.]
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10 A BILL to amend and reenact §37-6-11 of the Code of West Virginia,
11 1931, as amended, relating to termination of a residential
12 lease upon the death of a tenant; permitting termination of a
13 residential lease in certain situations; requiring notice and
14 payment of certain rent; prohibiting waiver; and providing
15 date for applicability of provisions.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 6. LANDLORD AND TENANT.**

20 **§37-6-11. Persons liable for rent; termination of lease upon death.**

21 (a) Rent may be recovered from the lessee, or other person
22 owing it, or the heir, personal representative, devisee or
23 assignee, who has succeeded to the lessee's estate in the premises.
24 But no assignee shall be liable for rent which became due before
25 his or her interest began. ~~Nothing herein shall change or impair~~
26 ~~the liability of heirs, personal representatives, or devisees, for~~
27 ~~rent, to the extent and in the manner in which they are liable for~~
28 ~~other debts of the ancestor or testator; nor shall the mere merger~~

1 ~~of the reversion to which a rent is incident affect the liability~~
2 ~~for such rent.~~

3 (b) Notwithstanding any other provision of this code, as
4 provided in this section either a lessee who signed a lease with a
5 now-deceased lessee, the heir, personal representative, devisee or
6 assignee of the deceased lessee, or the landlord may terminate the
7 lease prior to its expiration, upon the death of a lessee of a
8 residential premises. To be effective, notice of the termination
9 must be hand delivered or mailed by postage prepaid, first class
10 United States mail, to the address of the other party. The date of
11 notice is either the date the notice is hand delivered or the date
12 a notice by mail is postmarked. The termination shall become
13 effective on the last day of the calendar month that is two months
14 after the date of notice.

15 (c) The termination of a lease under this section does not
16 relieve the lessee's estate from liability either for the payment
17 of rent or other sums owed prior to or during the two month written
18 notice period, or for the payment of amounts necessary to restore
19 the premises to their condition at the commencement of the tenancy,
20 ordinary wear and tear excepted.

21 (d) An attempted waiver by a lessor, lessee or lessee's heir,
22 personal representative, devisee or assignee, by contract or
23 otherwise, of the right of termination provided by this section,
24 and any lease provision or agreement requiring a longer notice
25 period than that provided by this article, is void and
26 unenforceable.

27 (e) The provisions of this section apply to leases entered
28 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.)