

Senate Bill No. 509

(By Senator Trump)

[Introduced February 17, 2015; referred to the Committee on the Judiciary.]

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9 A BILL to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended, relating to
10 waste by a cotenant; providing that lawful use of the property by a majority of the ownership
11 is not waste; and providing the cotenants, and their agents or assigns, are not liable for
12 damages if an accounting of a pro rata share of the revenues and costs resulting from the use
13 is provided to each cotenant.

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

15 That §37-7-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted
16 to read as follows:

17 **ARTICLE 7. WASTE.**

18 **§37-7-2. Waste by cotenant.**

19 (a) If a tenant in common, joint tenant or parcener ~~commit~~ commits waste, he ~~shall be~~ or she
20 is liable to his or her cotenant, jointly or severally, for damages.

21 (b) If the tenants in common, joint tenants or parceners representing a majority of the
22 ownership consent to a lawful use of the property that use is permissible and is not waste. In that

1 case the cotenant, and their agents or assigns, are not liable for damages if:

2 (1) An accounting of a pro rata share of the revenues and costs resulting from the use is
3 provided to each cotenant equal to its ownership interest in the property; and

4 (2) Pro rata shares of each cotenant are distributed or, in the case of a cotenant that cannot
5 be located reserved for that cotenant.

NOTE: The purpose of this bill is to authorize the lawful use of property as approved by a majority of the ownership is not waste, and the cotenant and their agents or assigns, are not liable for damages if an accounting of a pro rata share of the revenues and costs resulting from the use is provided to each cotenant.

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