

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2054

2015 Carryover

(BY DELEGATE SHOTT)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto
 2 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 multiple units and intended to be
 2 occupied by more than one commercial tenant, a landlord has the right to terminate a tenant's
 3 lease even if the tenant is paying rent in accordance with the terms of the lease if:

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

6 (2) (A) The tenant fails to commence using the leased property for the purpose specified
 7 in the lease; or

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

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

13 (4) The nonuse or unpermitted use by the tenant has an adverse economic effect upon

14 landlord and at least one of the landlord's other tenants; and

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

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

20 (c) The termination of the lease under the authority of this section operates to extinguish
21 all of the respective rights and obligations of the parties except the landlord's right to collect all
22 unpaid rent and other financial obligations of the tenant and all other rights and obligations which
23 would survive the termination under the express terms of the lease.

24 (d) This section does not replace or limit any other remedy available to the landlord under
25 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.