

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2081

By Delegate Walker

[Introduced January 11, 2023; 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 creating a Renter's Bill of Rights and Tenant Protection
3 Act; limiting rental rate increases under certain circumstances; setting forth exclusions;
4 providing definitions; and providing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. LANDLORD AND TENANT.

§37-6-31. Renter's bill of rights and tenant protection act; limiting rental rate increases; exclusions; definitions; effective date.

1 (a) (1) Notwithstanding any other provision of law to the contrary, subject to subsection (b),
2 an owner of residential real property shall not, over the course of any 12-month period, increase
3 the gross rental rate for a dwelling or a unit more than five percent plus the percentage change in
4 the cost of living, or 10 percent, whichever is lower, of the lowest gross rental rate charged for that
5 dwelling or unit at any time during the 12 months prior to the effective date of the increase. In
6 determining the lowest gross rental amount pursuant to this section, any rent discounts,
7 incentives, concessions, or credits offered by the owner of such unit of residential real property
8 and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-
9 offered discounts, incentives, concessions, or credits shall be separately listed and identified in the
10 lease or rental agreement or any amendments to an existing lease or rental agreement.

11 (2) If the same tenant remains in occupancy of a unit of residential real property over any
12 12-month period, the gross rental rate for the unit of residential real property shall not be increased
13 in more than two increments over that 12-month period, subject to the other restrictions of this
14 subsection governing gross rental rate increase.

15 (b) For a new tenancy in which no tenant from the prior tenancy remains in lawful
16 possession of the residential real property, the owner may establish the initial rental rate not
17 subject to subsection (a). Subsection (a) is only applicable to subsequent increases after that
18 initial rental rate has been established.

19 (c) A tenant of residential real property subject to this section shall not enter into a sublease
20 that results in a total rent for the premises that exceeds the allowable rental rate authorized by
21 subsection (a). Nothing in this subsection authorizes a tenant to sublet or assign the tenant's
22 interest where otherwise prohibited.

23 (d) This section shall not apply to the following residential real properties:

24 (1) Housing restricted by deed, regulatory restriction contained in an agreement with a
25 government agency, or other recorded document as affordable housing for persons and families of
26 very low, low, or moderate income, or subject to an agreement that provides housing subsidies for
27 affordable housing for persons and families of very low, low, or moderate income, as defined by
28 federal statutes or regulations.

29 (2) Dormitories constructed and maintained in connection with any higher education
30 institution within the state for use and occupancy by students in attendance at the institution.

31 (3) Housing that has been issued a certificate of occupancy within the previous 15 years.

32 (4) Residential real property that is alienable separate from the title to any other dwelling
33 unit, provided that both of the following apply:

34 (A) The owner is not any of the following:

35 (i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code,

36 (ii) A corporation, or

37 (iii) A limited liability company in which at least one member is a corporation, and

38 (B) (i) The tenants have been provided written notice that the residential real property is
39 exempt from this section using a written statement that makes clear the owner is not any of the
40 following: (1) A real estate investment trust, as defined by Section 856 of the Internal Revenue
41 Code; (2) a corporation; or (3) a limited liability company in which at least one member is a
42 corporation.

43 (ii) For a tenancy existing before July 1, 2020, the notice required under subparagraph (i)
44 may, but is not required to, be provided in the rental agreement.

45 (iii) For a tenancy commenced or renewed on or after July 1, 2023, the notice required
46 under subparagraph (i) must be provided in the rental agreement.

47 (iv) Addition of a provision containing the notice required under subparagraph (i) to any
48 new or renewed rental agreement or fixed-term lease constitutes a similar provision.

49 (5) A duplex in which the owner occupied one of the units as the owner's principal place of
50 residence at the beginning of the tenancy, so long as the owner continues in occupancy.

51 (e) An owner shall provide notice of any increase in the rental rate, pursuant to subsection
52 (a), to each tenant.

53 (f) For the purposes of this section, the following definitions shall apply:

54 "Percentage change in the cost of living" means the percentage change from April 1 of the
55 prior year to April 1 of the current year in the regional Consumer Price Index for the region where
56 the residential real property is located, as published by the United States Bureau of Labor
57 Statistics.

58 "Tenancy" means the lawful occupation of residential real property and includes a lease or
59 sublease.

60 (g) This section shall apply to all rent increases subject to subsection (a) occurring on or
61 after January 1, 2024.

62 (h) Any waiver of the rights under this section shall be void as contrary to public policy.

63 (i) (1) The Legislature finds and declares that the unique circumstances of the current
64 housing crisis require a statewide response to address rent gouging by establishing statewide
65 limitations on gross rental rate increases.

66 (2) It is the intent of the Legislature that this section should apply to address the current
67 statewide housing crisis, as described in subdivision (1).

68 (3) Nothing in this section authorizes a local government to establish limitations on any
69 rental rate increases not otherwise under the law.

70 (j) This section shall be known and cited as "The Renter's Bill of Rights and Tenant

71 Protection Act".

72 (k) This section shall take effect July 1, 2023.

NOTE: The purpose of this bill is to create a Renter's Bill of Rights and Tenant Protection Act; limiting rental rate increases under certain circumstances; setting forth exclusions; providing definitions; and providing an effective date.

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