

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENGROSSED

House Bill 3554

By Delegate Howell

[Originating in the Committee on Economic
Development & Tourism; Reported on February 16,
2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new section
2 designated as §8-12-5h; all relating to prohibiting a municipality or the governing body of
3 any municipality from limiting rental of a property in whole or in part, or as a limitation upon
4 the duration, frequency, or location of such rental; providing that a municipality may
5 regulate activities that arise when a property is used as a rental, if applied uniformly;
6 providing exception for imposition of hotel occupancy tax; providing a municipality may
7 restrict the commercial use of real estate in designated areas through planning or zoning
8 ordinances; and providing damages for violations by municipalities of this prohibition.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5h. Limitations upon power of a municipality to limit the rental of a property.

1 (a) Neither a municipality nor the governing body of any municipality may, other than by a
2 uniform zoning ordinance, limit the rental of a property, in whole or in part, or regulate the duration,
3 frequency, or location of such rental property, in whole or in part. A municipality may regulate
4 activities that arise when a property is used as a rental: *Provided*, That such regulation applies
5 uniformly to all properties, without regard to whether such properties are used as a rental:
6 *Provided, however*, That nothing in this subdivision may be construed to prohibit a municipality
7 from imposing a hotel occupancy tax as prescribed in §7-18-1 *et seq.* of this code.

8 (b) This section does not limit the authority of a municipality to restrict the commercial use
9 of real estate in designated areas through planning or zoning ordinances.

- 10 (c) For any violation of this provision, if a plaintiff prevails against any municipality or
11 governing body of any municipality, that person may be awarded up to treble the damages
12 assessed for potential lost revenue arising from the limitation imposed upon the rental property.

NOTE: The purpose of this bill is to prohibit a municipality or the governing body of any municipality from limiting rental of a property in whole or in part other than uniform property regulation, zoning or the imposition of hotel occupancy tax, and to allow damages for violations by municipalities of this prohibition.

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