

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 74**

By Senator Woelfel

[Introduced February 12, 2025; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §37-6A-5 and §55-3A-1 of the Code of West Virginia, 1931, as  
2 amended; and to amend the code by adding a new section, designated §37-6-5a, relating  
3 to residents of recovery residences; creating pilot program for recovery residences located  
4 in Cabell County as such residences relate to landlord-tenant law; defining terms;  
5 providing that resident of recovery residence may be immediately discharged in certain  
6 circumstances; establishing procedures for removing recovery resident; establishing  
7 refund process for fees for residency or services paid to recovery residence; requiring  
8 return transportation be provided to individual transported to recovery residence from  
9 outside state of West Virginia; requiring reporting of certain information to West Virginia  
10 Department of Human Services' Bureau for Behavioral Health; requiring West Virginia  
11 Department of Human Services' Bureau for Behavioral Health to prepare and submit  
12 written report to Joint Committee on Government and Finance and specifying minimum  
13 contents; clarifying effect on rights under the West Virginia Fair Housing Act; providing  
14 sunset date; requiring award of reasonable attorney's fees against recovery residence in  
15 certain instances; and requiring recovery residence file petition for summary relief for  
16 wrongful occupation of residential rental property in certain circumstances.

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

## **CHAPTER 37. REAL PROPERTY.**

### **ARTICLE 6. LANDLORD AND TENANT.**

#### **§37-6-5a. Recovery residences; pilot program.**

1 (a) The purpose of this section is to create a pilot program in Cabell County to study the  
2 uniqueness of recovery residences as they relate to landlord-tenant law and determine an  
3 equitable resolution when circumstances arise which bring about an unanticipated cessation of an  
4 individual's participation in a recovery residence's program.

5 (b) For the purposes of this section:

6           (1) "Recovery residence" has the meaning ascribed in §16-59-1 and applies solely to  
7 recovery residences located within Cabell County.

8           (2) "Residence agreement" means an agreement between an individual residing in a  
9 recovery residence and the recovery residence.

10           (3) "Resident" means a person residing in and receiving services from a recovery  
11 residence.

12           (c) A recovery residence may immediately discharge a resident without filing a petition for  
13 summary relief for wrongful occupation of residential rental property for any of the following  
14 reasons:

15           (1) The use, possession, or distribution of alcohol, any controlled substance, or  
16 prescription medication for which the resident does not have a valid prescription;

17           (2) Sexual misconduct;

18           (3) Any crime of violence against a person or threat of crime of violence against a person;  
19 or

20           (4) Any conduct which jeopardizes the safety of another resident.

21           (d) If a recovery residence seeks to discharge a resident for a reason not enumerated in  
22 subdivisions (1) through (4), inclusive, subsection (c) of this section, the resident is entitled to the  
23 due process and protections afforded a "tenant" as that term is defined in §37-6A-1; the recovery  
24 residence shall be treated as a "landlord" as that term is defined in §37-6A-1; and the recovery  
25 residence shall be required to proceed against the resident under §55-3A-1 with the filing of a  
26 petition for summary relief seeking removal of the resident for wrongful occupation of residential  
27 rental property: *Provided*, That any provision of a recovery residence agreement seeking to waive  
28 or limit the protections afforded a resident in this section is void.

29           (e) If a resident is discharged, evicted, or otherwise removed from a recovery residence  
30 prior to the expiration of the time period for which he or she has previously paid rent or any other  
31 fee for residency or services, the recovery residence shall issue a refund of the rent or fee to the

discharged resident in an amount prorated, on a per diem basis, to account for the remainder of that time period.

(f) If requested by the resident, a recovery residence shall first apply any refund required by subsection (e) of this section to costs related to placing the resident in a higher level care facility or transferring the resident to another recovery residence: *Provided*, That if the resident does not request to be placed in a higher level care facility or does not request to be transferred to another recovery residence, within 72 hours of a resident's discharge, eviction, or removal, the recovery residence shall issue any refund due to a resident: *Provided, however*, That if the rent or fee moneys were paid by a third party on behalf of the resident, any refund required by subsection (e) of this section shall be issued directly to the third-party payor within 72 hours of a resident's discharge, eviction, or removal.

(g) If a resident was transported by the recovery residence from any location outside the state of West Virginia and is discharged, evicted, or otherwise removed from the recovery residence, the recovery residence shall provide transportation to the location from which the resident was initially transported to the discharged, evicted, or otherwise removed resident, at the expense of the recovery residence.

(h) If the resident is discharged, evicted, or otherwise removed prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or service, the recovery residence shall report non-identifying resident information regarding the reason for the early discharge, eviction, or removal of the resident to the Department of Health and Human Resources' Bureau for Behavioral Health.

(i) On or before July 1, 2025, the Department of Human Services' Bureau for Behavioral Health shall prepare and submit to the Joint Committee on Government and Finance a written report which includes, at a minimum:

(1) The information specified in subsection (h) of this section for the period May 1, 2024, through May 1, 2025;

(2) An evaluation of the effectiveness of the pilot program;

(3) A recommendation as to whether the pilot program created in this section should be continued, reduced, expanded, terminated, or otherwise modified;

(4) Any recommended legislation; and

(5) Any other issues deemed relevant.

(j) This section shall not be construed to affect rights under the West Virginia Fair Housing Act in §5-11A-1 et seq.

(k) This section shall be of no further force and effect on May 1, 2026.

## **ARTICLE 6A. RESIDENTIAL RENTAL SECURITY DEPOSITS.**

### **§37-6A-5. Landlord's noncompliance.**

(a) If a landlord fails to comply with any of the provisions of this article, and ~~such~~ the noncompliance is willful or not in good faith, the tenant is entitled to a judgment for:

(1) The amount of any unreturned security deposit; and

(2) Damages for annoyance or inconvenience resulting from the landlord's nonconformance equal to one and a half times the amount wrongfully withheld, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to any amount awarded to the tenant pursuant to this subsection to be credited against any rent due to the landlord: Provided, That if an individual is residing in a recovery residence as defined in §37-6-5a, the recovery residence is required to comply with the provisions of this article, and if the recovery residence's noncompliance is willful or not in good faith, the court shall also award reasonable attorney's fees.

(b) Jurisdiction for any civil action brought pursuant to this article shall be in magistrate court or circuit court in the county where the residential rental premises or units are located.

(c) This section does not limit rights or remedies available to a landlord or tenant under any other law.

(d) The amendments to this section enacted by the Legislature during the 2025 regular

session shall not be construed to affect rights under the West Virginia Fair Housing Act in §5-11A-1

et seq.

(e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a after May 1, 2027.

## CHAPTER 55. ACTIONS, SUITS, AND ARBITRATION; JUDICIAL SALE.

### ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

#### §55-3A-1. Petition for summary relief for wrongful occupation of residential rental property.

(a) A person desiring to remove a tenant, including a resident of a recovery residence as defined in §37-6-5a who is discharged for a reason other than those enumerated in §37-6-5a(c)(1) through (4), inclusive, from residential rental property may apply for ~~such~~ relief to the magistrate court or the circuit court of the county in which ~~such~~ the property is located, by verified petition, setting forth the following:

(1) That he or she is the owner or agent of the owner and as such has a right to recover possession of the property;

(2) A brief description of the property sufficient to identify it;

(3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is in arrears in the payment of rent, has breached a warranty or a leasehold covenant, or has deliberately or negligently damaged the property or knowingly permitted another person to do so, and describing such arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Previous to the filing of the petition the person shall request from the court the time and place at which the petitioner shall be heard. The court shall fix a time for ~~such~~ the hearing, which time shall not be less than five nor more than 10 judicial days following ~~such~~ the request.

17 (c) Immediately upon being apprised of the time and place for the hearing, the petitioner  
18 shall ~~cause~~ have a notice of the ~~same to be~~ hearing served upon the tenant in accordance with the  
19 provisions of Rule 4 of the West Virginia Rules of Civil Procedure or by certified mail, return receipt  
20 requested. ~~Such~~ The notice shall inform the tenant that any defense to the petition ~~must~~ shall be  
21 submitted in writing to the petitioner within five days of the receipt by the tenant of the notice, and in  
22 no case later than the fifth day next preceding the date of hearing. Upon receipt of the return of  
23 service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner  
24 shall file with the court his or her petition and such proof of service.

25 (d) The amendments to this section enacted by the Legislature during the 2025 regular  
26 session shall not be construed to affect rights under the West Virginia Fair Housing Act in §5-11A-1  
27 et seq.

28 (e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a  
29 after May 1, 2027.

NOTE: The purpose of this bill is to create a pilot program in Cabell County relating to recovery residences as they relate to landlord-tenant law.

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