

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4570

By Delegates Brooks, Roop, Pritt, Green, and Martin

[Originating in the Committee on the Judiciary;

Reported on February 2, 2026]

1 A BILL to amend and reenact §37-6-5 and §55-3A-1 of the Code of West Virginia, 1931, as
2 amended, relating to allowing service of a notice to terminate tenancy upon tenants by
3 posting the notice conspicuously on the premises and secured by reasonable means
4 where it can be readily obtained; also relating to allowing service of the notice of the
5 hearing upon tenants for eviction proceedings to be accomplished by posting the notice
6 conspicuously on the premises and secured by reasonable means where it can be readily
7 obtained; relating to clarifying that the posting of a notice of the hearing upon the rental unit
8 may not be accomplished by the petitioner and must be effectuated by a third party with no
9 interest in the proceedings; related to clarifying that a petitioner that utilizes service of
10 process by posting on the rental unit shall provide the court with a notarized affidavit of
11 proof of service from the third party that effectuated service evidencing service was made
12 upon the tenant in this manner; related to clarifying that this affidavit of proof of service
13 shall evidence that service upon the tenant was made and also shall state the date and
14 time of the posting of the notice of the hearing on the rental unit; also relating to clarifying
15 that photographic evidence demonstrating how notice of the hearing was posted and
16 secured upon the property shall also be attached to the affidavit of proof of service; also
17 related to clarifying that upon receipt of the affidavit of proof of service, the petitioner shall
18 file with the court his or her petition and the affidavit of proof of service, along with all
19 attachments that are required by §55-3A-1 of the Code of West Virginia.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. LANDLORD AND TENANT.

§37-6-5. Notice to terminate tenancy.

1 (a) A tenancy from year to year may be terminated by either party giving notice in writing to
2 the other, at least three months prior to the end of any year, of his or her intention to terminate the
3 tenancy.

4 (b) A periodic tenancy in which the period is less than one year may be terminated by like

5 notice or by notice for one full period before the end of any period.

6 (c) When the notice to terminate the tenancy is to the tenant, it may be served upon the
7 tenant or upon anyone holding the leased premises, or any part thereof, under the tenant.

8 (d) A landlord may accomplish service of the notice of termination of tenancy by posting the
9 notice on the rental unit in a conspicuous location and secured by reasonable means where it can
10 be readily obtained.

11 (e) When the notice to terminate the tenancy is by the tenant, it may be served upon
12 anyone who, at the time, owns the premises in whole or in part, or upon the agent of such owner, or
13 according to the common law.

14 (f) The provisions of this section do not apply if, by special agreement, some other period of
15 notice is fixed or no notice is to be given. Notice is also not necessary from or to a tenant whose
16 term is to end at a certain time.

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.

1 (a) A person desiring to remove a tenant from residential rental property may apply for
2 relief to the magistrate court or the circuit court of the county in which the property is located, by
3 verified petition, setting forth the following:

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

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

(3) That the tenant is wrongfully occupying 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 the arreage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Upon filing the petition, the court shall schedule a hearing, which may not be less than or more than 10 judicial days following the filing of the petition.

(c) Immediately upon being apprised of the time and place for hearing the petitioner shall a notice of the hearing to be served upon the tenant in accordance with the provisions of 1 of the West Virginia Rules of Civil Procedure, or by certified mail, return receipt requested. Notice shall inform the tenant that any written defense to the petition may be filed and served the petitioner within five days of the receipt by the tenant of the notice. Upon receipt of the of service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition and the proof of service. Immediately upon apprised of the time and place for hearing the petitioner shall cause a notice of the hearing to be served upon the tenant by any of the following means:

(1) In accordance with the provisions of Rule 4 of the West Virginia Rules of Civil
Procedure;

(2) Certified mail, return receipt requested; or

(3) Posting the notice of the hearing on the rental unit in a conspicuous location and by reasonable means where it can be readily obtained: *Provided That the posting of a notice of the hearing upon the rental unit may not be accomplished by the petitioner and must be conducted by a third party with no interest in the proceedings.*

(d) The notice of the hearing provided pursuant to subsection (c) of this section shall inform the tenant that any written defense to the petition may be filed and served upon the petitioner five days of the receipt by the tenant of the notice.

33 (e) If service of process of the notice of hearing is effectuated pursuant to (c) (1) or (2), the
34 petitioner shall, upon receipt of the return of service or the return receipt as the case may be,
35 evidencing service upon the tenant, file with the court his or her petition and the proof of service
36 (e) In addition to the requirements of subsection (d) of this section, if service of process
37 upon the tenant of the notice of the hearing is accomplished by posting the notice conspicuously
38 on the rental unit pursuant to subsection (c)(3) of this section, the petitioner shall provide the court
39 with a notarized affidavit of proof of service from the third party that effectuated service evidencing
40 service was made upon the tenant in this manner. This affidavit of proof of service shall evidence
41 that service upon the tenant was made and state the date and time of the posting of the notice of
42 the hearing on the rental unit. Photographic evidence demonstrating how notice of the hearing
43 was posted and secured upon the property shall also be attached to the affidavit of proof of
44 service. Upon receipt of the affidavit of proof of service, the petitioner shall file with the court his or
45 her petition and the affidavit of proof of service, along with all attachments required by this
46 subsection.

NOTE: The purpose of this bill is to permit service upon tenants for eviction proceedings to be accomplished by publication or by posting the notice conspicuously on the premises in a reasonably secure manner.

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