

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 799

BY SENATOR WILLIS

[Reported February 17, 2026, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §55-3A-1 and §55-3B-4 of the Code of West Virginia, 1931, as
2 amended, relating to eviction proceedings; requiring receipt of return of service or return
3 receipt to be filed with court; requiring hearing to be scheduled upon filing petition;
4 permitting tenant to file and serve written defense to eviction petition within five days of
5 tenant's receipt of notice of petition; and providing that hearing shall be scheduled five to
6 10 judicial days following filing of petition.

Be it enacted by the Legislature of West Virginia:

**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;

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

11 (4) A prayer for possession of the property.

12 (b) Upon filing the petition, the court shall schedule a hearing, which may not be less than
13 five nor more than 10 judicial days following the filing of the petition.

14 (c) Immediately upon being apprised of the time and place for hearing the petitioner shall
15 cause the petition, the summons, and a notice of the hearing to be served upon the tenant in

16 accordance with the provisions of Rule 4 of the West Virginia Rules of Civil Procedure or by
17 certified mail, return receipt requested. The notice shall inform the tenant that any written defense
18 to the petition may be filed and served upon the petitioner within five days of the receipt by the
19 tenant of the notice. ~~Upon receipt of the return of service or the return receipt as the case may~~
20 ~~be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition~~
21 ~~and the proof of service. The receipt of the return of service or return receipt, as the case may be,~~
22 ~~shall be filed with the court by the petitioner.~~

ARTICLE 3B. REMEDIES FOR WRONGFUL OCCUPATION OF FACTORY-BUILT HOME SITE.

§55-3B-4. Petition for summary relief for wrongful occupation of residential rental property.

1 (a) A person desiring to remove a tenant and factory-built home from a factory-built home
2 site may apply for ~~such~~ relief to the magistrate court or the circuit court of the county in which
3 ~~such~~ the property is located, by 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 evict the
5 tenant and have the factory-built home of the tenant removed;

6 (2) A brief description of the factory-built home site sufficient to identify it;

7 (3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is:

8 (A) Holding over after having been given proper notice of termination of tenancy, whether
9 or not the tenant has continued to pay and the landlord has accepted rent; or

10 (B) The landlord has good cause; and

11 (4) A prayer for eviction of the tenant and removal of the tenant's factory-built home.

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

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