WEST VIRGINIA CODE: §55-3B-6

§55-3B-6. Proceedings in court; final order; disposition of abandoned personal property.

(a) If at the time of the hearing there has been no appearance, answer or other responsive pleading filed by the tenant, the court shall make and enter an order evicting the tenant and ordering the tenant to have the factory-built home removed.

(b) In the case of a petition alleging good cause or holding over after proper termination of a tenancy, if the tenant files an answer raising the defense of breach by the landlord of a material covenant upon which the tenant's duties depend or other defenses to the claim or claims set forth in the petition, the court shall proceed to a hearing on such issues.

(c) Continuances of the hearing provided for in this section shall be for good cause only and the judge or magistrate shall not grant a continuance to either party as a matter of right. If a continuance is granted upon request by a tenant, the tenant shall be required to pay into court any periodic rent becoming due during the period of such continuance.

(d) At the conclusion of the hearing, if the court finds that the landlord is entitled to evict the tenants and have the factory-built home of the tenants removed, the court shall make and enter an order evicting the tenants and ordering the tenants to have the factory-built home removed. In the case of a proceeding pursuant to subsection (a) of this section, the court may also make a written finding and include in its order such relief on the issue of arrearage in the payment of periodic payments or other agreed charges related to the tenancy as the evidence may require. The court may disburse any moneys paid into court by the tenant in accordance with the provisions of this section.

(e) The court order shall specify the time when the tenant shall vacate the property, taking into consideration such factors as the nature of the factory-built home, the possibility of relative harm to the parties and other material facts deemed relevant by the court in considering when the tenant might reasonably be expected to vacate the property. The court shall not order the tenant to vacate the premises in less than one month unless the tenant refuses or fails to pay rent for that period in advance as it becomes due or unless the court finds that the tenant has deliberately or negligently damaged the property or the property of other tenants or materially threatened or harmed the quiet enjoyment of the property of other tenants or neighbors or knowingly permitted another person to do so. The court shall not order the tenant to remove the factory-built home in less than three months unless the tenant refuses or fails to pay rent in advance as it becomes due for that period or unless the court finds that the presence of the factory-built home poses an imminent threat to the health or safety of other tenants or neighbors: Provided, That the court may order the home to be removed in not less than thirty days if the factory-built home is a single section and the tenant had held over after having been given notice pursuant to section three of this article. The order shall further provide that if the tenant continues to wrongfully occupy the

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property beyond such time or if the tenant refuses or fails to remove the factory-built home in the time required, the landlord may apply for a writ of possession and the sheriff shall forthwith remove the tenant, taking precautions to guard against damage to the property of the landlord and the tenant.

(f) In the event an appeal is taken and the tenant prevails upon appeal, and if the term of the lease has expired and proper termination notice was given pursuant to section three of this article, absent an issue of title, retaliatory eviction or breach of warranty, the relief ordered by the appellate court shall be for monetary damages only and shall not restore the tenant to possession. During the pendency of any such appeal, if the period of the tenancy has otherwise expired and proper termination notice was given pursuant to section three of this article, the tenant is not entitled to remain in possession of the property.

(g) When an order is issued pursuant to this section evicting the tenant and ordering the tenant to remove the factory-built home and the tenant fails to remove the factory-built home by the date specified by the order issued pursuant to subsection (e) of this section, the landlord may:

(1) Dispose of the tenant's factory-built home without incurring any liability or responsibility to the tenant or any other person if the tenant informs the landlord in writing that the tenant is abandoning the factory-built home;

(2) Remove and store the factory-built home after the date and time by which the court ordered the tenant to remove the factory-built home. The landlord may sell the stored factory-built home after thirty days without incurring any liability or responsibility to the tenant or any other person if: (i) The tenant has not paid the reasonable costs of storage and removal to the landlord and has not taken possession of the stored factory-built home; or (ii) the costs of storage equal the value of the factory-built home being stored; or

(3) Leave the factory-built home on the property. The landlord may sell the factory-built home left on the property after thirty days without incurring any liability or responsibility to the tenant or any other person if the tenant has not paid the landlord the reasonable costs of leaving the factory-built home on the landlord's property and has not taken possession of the factory-built home.

(h) The sale shall be conducted and the proceeds distributed pursuant to article nine, chapter forty-six of this code as if the landlord became the holder of a security interest on the day the tenant was to have the factory-built home removed from the site except that the landlord shall have first priority to recover unpaid rent and may require as a condition of the sale that the buyer post security or place in escrow the cost of moving the factory-built home from the site.

(i) When an order is issued pursuant to this section granting possession of the property to the landlord and the tenant removes the factory-built home, but fails to remove all other personal property by the date and time specified by the order issued pursuant to subsection

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(e) of this section, the landlord may:

(1) Dispose of the tenant's personal property without incurring any liability or responsibility to the tenant or any other person if the tenant informs the landlord in writing that the other personal property is abandoned or if the property is garbage;

(2) Remove and store the other personal property after the date and time by which the court ordered the tenant to vacate the property. The landlord may dispose of the stored personal property after thirty days without incurring any liability or responsibility to the tenant or any other person if: (i) The tenant has not paid the reasonable costs of storage and removal to the landlord and has not taken possession of the stored personal property; or (ii) the costs of storage equal the value of the personal property being stored; or

(3) Leave the personal property on the property. The landlord may dispose of personal property left on the property after thirty days without incurring any liability or responsibility to the tenant or any other person if the tenant has not paid the landlord the reasonable costs of leaving the personal property on the landlord's property and has not taken possession of the personal property.

(j) Notwithstanding the provisions of subsections (g) and (i) of this section, if the personal property is worth more than $300 and was not removed from the property or place of storage within thirty days with the required fees paid as provided in subsection (i) of this section, or if the factory-built home was not removed within thirty days with the required fees paid as provided in subsection (g) of this section, the landlord shall store the personal property or factory-built home for up to thirty additional days if the tenant or any person holding a security interest in the abandoned personal property or factory-built home informs the landlord of their intent to remove the property: Provided, That the tenant or person holding a security interest in the personal property pays the landlord the reasonable costs of storage and removal.

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